

ESTTA Tracking number: **ESTTA1150472**

Filing date: **08/02/2021**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92075375
Party	Defendant Ethan Van Sciver and Antonio J. Malpica
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Submission	Motion to Dismiss - Rule 12(b)
Filer's Name	Scott Houtteman
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Date	08/02/2021
Attachments	MotionDismiss.pdf(277950 bytes) HouttemanDecl.pdf(178878 bytes) Ex1.pdf(52289 bytes) Ex2.pdf(46755 bytes) Ex3.pdf(1398077 bytes) Ex4.pdf(1624151 bytes) Ex5.pdf(78424 bytes) Ex6.pdf(811136 bytes) Ex7.pdf(702986 bytes) Ex8.pdf(595136 bytes) Ex9.pdf(303320 bytes) Ex10.pdf(275611 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

COMMON SENSE PRESS INC
DBA POCKET JACKS COMICS

Petitioner-Plaintiff

v.

ANTONIO J. MALPICA, and
ETHAN VAN SCIVER

Registrants-Defendants

Cancellation No. 92075375

MOTION TO DISMISS

Co-Defendant Ethan Van Sciver, through counsel, moves the Board dismiss this proceeding. Petitioner Common Sense Press Inc DBA Pocket Jacks Comics (variously “Petitioner,” “CSP” or “Preston Poulter”) lacks a statutory cause of action to challenge the trademark registration which divests the Trademark Trial And Appeal Board of jurisdiction.

I. SUMMARY OF ARGUMENT

Petitioner CSP has based his entitlement to bring this cancelation proceeding on the fact that Petitioner’s own trademark applications were suspended in view of Defendant’s registered trademark. Ordinarily this is a standard, uncontroversial grounds to seek cancellation of that registration. But this is not an ordinary case. Here, as Defendant will show, Petitioner’s applications are void *ab initio*. Petitioner filed two applications declaring its intent-to-use the mark Comicsgate. But Petitioner was not the proper party with a *bona fide* intent to use this mark. The public record, largely a selection of Petitioner’s own admissions, show Comicsgate in commercial use years before Petitioner filed its own applications. Thus, Petitioner is a mere intermeddler, a self-appointed guardian of the trademark register and has no statutory right to bring this cause of action.

II. TO INVOKE THE BOARD'S JURISDICTION PETITIONER HAS BURDEN OF ESTABLISHING A STATUTORY CAUSE OF ACTION

In order to maintain a petition to cancel a registered trademark, the petitioner must prove its entitlement to a statutory cause of action (formerly discussed as “standing”). See *Australian Therapeutic Supplies Pty. Ltd. v. Naked TM, LLC*, 965 F.3d 1370, 2020 USPQ2d 10837, at *3 (Fed. Cir. 2020) (citing *Lexmark Int’l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 109 USPQ2d 2061, 2067 n.4 (2014)). Petitioner CSP must show: (1) a real interest in the cancellation proceeding and (2) a reasonable belief of damage, as required under 15 U.S.C. § 1064. *Corcamore, LLC v. SFM, LLC*, 978 F.3d 1298, 1303 (Fed. Cir. 2020). The real-interest test is to “distinguish [parties demonstrating a real interest] from mere intermeddlers or ... meddlesome parties acting as self-appointed guardians of the purity of the Register.” *Id.* at 1305 (citing *Selva & Sons, Inc. v. Nina Footwear, Inc.*, 705 F.2d 1316, 1325–26 (Fed. Cir. 1983)).

In deciding a motion to dismiss, the Board is not limited to the four corners of the complaint but may also consider matters incorporated by reference or integral to the claim, items subject to judicial notice and matters of public record. See *Dimare Fresh, Inc.*, 808 F.3d 1301, 1306 (Fed. Cir. 2015). Also, the Board can take judicial notice of adjudicative facts “not subject to reasonable dispute,” because they “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201.

Finally, in matters involving the Board’s jurisdiction, a motion to dismiss may be treated as a motion for summary judgement, provided the parties are given an opportunity to present evidence and argument on that question. *Zoba International Corp. v. DVD Format/LOGO Licensing Corp.*, 98 USPQ2d 1106, 1108, n.4 (TTAB 2011) (Board allowed for summary judgment, prior to initial disclosures, on jurisdictional issue of claim preclusion).

III. CSP’S APPLICATIONS, AND THE PUBLIC RECORD INTEGRAL TO ITS CLAIM, SHOW CSP TO BE AN INTERMEDDLER

A. CSP CLAIMS A *BONA FIDE* INTENT-TO-USE COMICSGATE

In its complaint, CSP asserts a single grounds to establish its statutory cause of action to bring this cancellation proceeding—the harm from the USPTO suspending two of CSP’s applications in view of Defendant’s Comicsgate, Reg. No. 6102744. Complaint, 1 TTABVIEW at 2, ¶ 5.

The CSP complaint addresses only this, registered, trademark. But there is another Comicsgate trademark, a common law service mark generating millions of dollars in revenue. The CSP complaint completely ignores the service mark. More on this in section III C below.

B. INTENT-TO-USE APPLICATIONS ARE VOID *AB INITIO* WHEN FILED BY A PARTY WHO IS NOT ENTITLED TO USE THE MARK IN COMMERCE

CSP’s applications are (1) Ser. No. 88/872,841, filed April 15, 2020, for intent-to-use COMICSGATE in the field of comics and (2) Ser No. 88/925,542, filed May 20, 2020, for the intent-to-use COMICSGATE as a certification mark. *Id.* at ¶ 1. Copies of these applications have been attached as Exhibits (“Ex.”) 1 and 2.

Both of CSP’s trademark application contain the following sworn declaration:

“no other persons . . . have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.”

Ex. 1 at 5; Ex. 2 at 5. An application under the intent-to-use basis, §1(b), § 44 of the Lanham Act, 15 U.S.C. § 1051(b) (2020), must be filed by a party entitled to use the mark in commerce as of the application filing date. 15 U.S.C. §§ 1051(b)(3)(A)-(B), 1126(d)(2), 1126(e); 37 C.F.R. § 2.33(b)(2).

The application is void *ab initio* when the person designated as the applicant is not the entity with the *bona fide* intent to use the mark. T.M.E.P. § 1201.02(b) (2018); *American Forests v. Sanders*, 54 U.S.P.Q.2d 1860, 1864 (T.T.A.B. 1999) (holding intent-to-use application void because wife filed but the entity with the *bona fide* intent to use was a partnership composed of the wife and her husband), *aff’d*, 232 F.3d 907 (Fed. Cir. 2000).

C. THE PUBLIC RECORD SHOWS “COMICSGATE” IS AN EXISTING MARK, OWNED BY ANOTHER WITH PRIOR AND SUPERIOR RIGHTS TO CSP

1. TRADEMARK RIGHTS ARE ACQUIRED IN THE MARKETPLACE

As the Board knows, trademark rights are acquired by use in the marketplace. *In re ECCS*, 94 F.3d 1578, 39 USPQ2d 2001 (Fed. Cir. 1996) (J. Rich) (“[T]he most fundamental aspect of United States trademark law . . . [is] that trademark ownership and attendant rights are acquired in the marketplace by use”). Indeed, the Lanham Act explicitly protects unregistered marks from both infringement and trademark dilution. Lanham Act § 43(a), 15 U.S.C. § 1125(a); § 43(c), 15 U.S.C. § 1125(c).

2. DEFENDANT’S COMICSGATE SERVICE MARK IN USE SINCE 2018

Defendant Ethan Van Sciver will now present portions of the public record, integral to CSP’s complaint. It shows, starting in the spring of 2018 and continuing to the present time, Mr. Van Sciver has used Comicsgate in commerce. This is well before the filing date of CSP’s applications.

Mr. Van Sciver is a 20 year veteran artist who has worked for Marvel and DC Comics on books such as Green Lantern, Flash, Superman, Batman and X-Men. He is now one of a number of independent comic book creators. See Ex. 4 at 4 (<https://www.indiegogo.com/projects/ethan-van-sciver-s-cyberfrog-bloodhoney-comic-book#>, video). He began using Comicsgate in commerce in the spring of 2018, for example, he promoted the crowdfunding of independent comics under “Comicsgate.” See e.g. Ex. 3 (July 12, 2018, 2 hr. 57.11 min. livestream (Comicsgate used in crowdfunding campaigns of at least five (5) independent comic creators). This early effort raised \$1,261,201. *Id* (sum of campaigns listed in livestream description and shown on pages 3-5). This exhibit includes specimens currently on file with the USPTO. Ex. 4 (Mr. Van Sciver’s application for the Comicsgate service mark, awaiting examination).

D. CSP ADMITS COMICSGATE WAS USED IN COMMERCE TO PROMOTE THE SALES OF COMIC BOOKS PRIOR TO CSP’S APPLICATION FILING DATES

1. CSP’S STATEMENTS ARE IN THE PUBLIC RECORD AND QUALIFY AS ADMISSIONS BY A PARTY OPPONENT

CSP is a Texas corporation owned by Preston Poulter. Ex. 5. Mr. Poulter also owns his own YouTube channel entitled “Pocket Jacks Comics.” This channel, like many YouTube channels, saves audio-video records that can be viewed by anyone at any time via the internet, as is indicated by the various links. *See* Ex. 6. The relevant excerpts, in context, have been transcribed and are made of record here. *Id.*

The statements presented are all those of Mr. Poulter. Mr. Poulter, as the owner of CSP, is a party to this proceeding. Accordingly, his statements are all admissions by a party opponent, Fed. R. Evid. 801(d)(2)A), and can be used for any purpose.

2. PETITIONER IS AWARE OF THE PRIOR COMERCIAL USE OF COMICGATE

On Jan 7, 2019, again well before Mr. Poulter filed his trademark applications in April of 2020, Mr. Poulter admitted, “When it comes to the Comicsgate crowd, Ethan Van Sciver and Richard C. Meyer . . . define the genre.” Ex. 6 at 2. Two day later, on Jan. 9, he returned to the subject:

“As a small comic creator, you’re going to naturally kind of find yourself, ah, either falling in with, or having to actively reject, the Comicsgate crowd. Because if you’re looking at, you know, the biggest numbers put up on the scoreboard for indie comics, they are going to be dedicated Comicsgate people such as, you know, Ethan Van Sciver and Richard C. Meyer. And Ethan Van Sciver has gone on record as saying, “Hey, if you’re a comic creator and you’re Comicsgate friendly, come on my platform.”

And, you know, he’s put some impressive numbers up there, not only for himself but also Antonio Bryce with Brand. He was able to take a guy who just had an idea for a comic, and, you know, just some preliminary artwork and get him to now \$55,000 on [crowdfunding website] Indiegogo. And so you know there’s certainly that temptation to go, “OK I am all on board with Comicsgate.” . . .

And for me this question has gone beyond theoretical because IndieCron, the website where I listed Guinevere and the Divinity Factory’s Indiegogo page, has now come out and said all future submissions must be official Comicsgate projects.

Ex. 6 at 3-4.

Note, the preceding admissions by CSP make up the core of Defendant's motion. CSP's admissions, all by themselves, evidence the very definition of a Comicsgate service mark actively in use in commerce. How can CSP, in good faith, later apply for the Comicsgate trademark claiming that no one else has the right to use Comicsgate in commerce?

Continuing on with the public record showing, as CSP (Mr. Poulter) pointed out, Mr. Van Sciver invites guests onto his own YouTube channel and, in association with the mark "Comicsgate," helps them raise funds on the crowdfunding site Indiegogo. Attached to this brief is the public record of the Comicsgate campaign mentioned by Mr. Poulter, the campaign to fund Mr. Antonio Bryce's 2018 "Brand" comic book which ultimately raised \$78,031. Ex. 7. Note that in addition to promoting Mr. Bryce, Mr. Van Sciver promoted seven (7) other independent comic books creators. Ex. 7 at 1 (Asami, Galactic Comic, Brutus the Badass, Black and White, Lonestar, Bigfoot Bill and Graveyard Shift).

Importantly, Mr. Poulter admits his is *not* associated with Comicsgate in any way. In fact, he once requested to appear on Mr. Van Sciver's Comicsgate channel and did so insistently. Unfortunately, this only led to Mr. Van Sciver calling Mr. Poulter a stalker. Ex. 6 at 5 ("Kind of labeled me 'stalker-ie' . . . when I was . . . asking to be on his show . . .")

Mr. Van Sciver's successful use of Comicsgate in promoting independent comic book creators soon gained recognition in the comic book industry. At the end of 2018 for example, a popular trade publication, Bleeding Cool, placed Mr. Van Sciver on its "Top 100 Power List." Ex. 8 at 2. ("Ethan Van Sciver . . . used . . . Comicsgate . . . to raise over half a million dollars on Indiegogo . . .")

Defendant includes additional admissions of Mr. Poulter, a selection of his Tweets, showing the admissions cited above are not exceptions but generally representative of his views.

. . . #Comicsgate is a label which EVS has defined the meaning of the group, as well as defending it against use by unwanted outsiders. – July 7, 2019

EVS and friends will decide what the next iteration of CG is. – July 28, 2019

#Comicsgate have attacked creators . . . who do not fulfill their identity requirements as fully CG – July 29, 2019

CG is Ethan’s little club – Sept. 7, 2019

@Indiegogo allows #comicsgate creators of Ethan Van Sciver’s choosing to run a 2nd campaign . . . – Oct. 30, 2019

. . . I am working for the destruction of #comicsgate and would never willing[ly] hire anyone associated. – Nov. 17, 2019

Ex. 9.

3. COMICSGATE IN CONTINUED USE SINCE 2018

Finally, Defendant notes the continuing public recognition of the Comicsgate mark for promoting the work of independent comic book creators. For example, a Comicgate fan has created a website <<https://creatorgo.com/cg/>>, that displays Indiegogo campaigns which the fan has associated with Comicsgate. Ex. 10. When last checked, this website reported Comicsgate crowdfunding figures in 2020 and 2021 totaling \$8,872,786. *Id.*

Thus, Petitioner’s own admissions, as further substantiated by the public record, show that another party, not CSP (Preston Poulter), has prior and superior trademark rights to the mark Comicsgate.

IV. WITH ITS APPLICATIONS NOW VOID, CSP HAS NO REAL INTEREST OR REASONABLE BELIEF OF DAMAGE

As stated above, CSP must pass a two part test to establish its statutory cause of action: (1) a real interest in the cancellation proceeding and (2) a reasonable belief of damage, as required under 15 U.S.C. § 1064. *See Corcamore, LLC*, 978 F.3d at 1303. CSP loses on both prongs. Because Mr. Poulter, and thus Petitioner CSP, knows of Defendant Ethan Van Sciver’s prior and superior rights to the Comicsgate mark, CSP’s intent-to-use applications are void *ab initio*. Without a valid application, CSP has no real interest in the cancellation proceeding. And CSP has no reasonable belief of damage. It’s desire to use the name Comicsgate is nothing more than brazen trademark piracy. CSP is not damaged, as required under 15 U.S.C. § 1064, by this Board preventing CSP’s piracy. Thus, CSP

cannot establish a statutory right to this cause of action. CSP is a mere intermeddler, a self-appointed guardian of the trademark register. 978 F.3d at 1305.

A “zone of interest analysis” is an alternative analytical framework. Its purpose is to “foreclose[] suit only when a plaintiff’s interests are so marginally related to or inconsistent with the purposes implicit in the statute that it cannot reasonably be assumed that Congress authorized that plaintiff to sue.” *Lexmark International, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 130 (2014). The Federal Circuit has said this analysis shares a similar purpose and application as the real-interest requirement. *Corcamore*, 978 F.3d at 1305. In any case, CSP’s admitted goal, “. . . the destruction of #comicgate,” is outside its zone of interest and this analysis leads to the same conclusion.

Defendant notes that CSP’s knowledge of “Comicsgate” being already used in the marketplace in connection with comics should have stopped CSP from filing its intent-to-use applications. As pointed out previously, both applications require sworn declarations that “no other persons . . . have the right to use the mark in commerce . . .”. See Ex. 1 and 2 (Petitioner CSP’s applications). Perhaps CSP was grossly negligent in signing this false declaration. Perhaps it was a deliberate false statement. All that matters now is the fact that CSP is not a party entitled to use the mark Comicsgate in commerce. Accordingly, both of CSP’s intent-to-use applications are void *ab initio*. See *American Forests*, *supra*.

V. RESPONSE TO POTENTIAL ARGUMENTS OF PETITIONER

A. PETITIONER IS NOT PREJUDICED BY DECIDING THE ISSUE NOW, REGISTRANT MAY BE PREJUDICED BY DECIDING THE ISSUE LATER

Defendant now address potential arguments by CSP. CSP may argue that the Board’s jurisdiction is limited to establishing the validity of registered trademarks and this does not include such issues as the presence of a “common law” trademark and whether a petitioner’s trademark applications are valid. But the Board has the authority to consider a wide variety of issues “if necessary to decide the issues properly before it in a cancellation proceeding . . .” *Selva & Sons, Inc. v.*

Nina Footwear, Inc., 705 F.2d 1316, 1324 (Fed. Cir. 1983) (the Board may pass on validity of a copyright if it is necessary to do so in the course of the exercise of its statutory jurisdiction) (citing *Knickerbocker Toy Co. v. Faultless Starch Co.*, 467 F.2d 501 (Cust. Ct. 1972)). In addition to copyright validity, the Board has considered issues such as the construction and validity of agreements and unfair competition claims. See *Selva & Sons*, 705 F.2d at 1324 and cases cited therein. The Board has the authority to address a common law mark to the extent necessary to decide an issue properly before the Board, Petitioner's right to a statutory cause of action.

CSP cannot complain that its own applications are not properly before the Board, that we must wait before addressing their validity, for example in a future opposition proceeding. When CSP introduced these applications in its complaint, as establishing its statutory cause of action, it opened the door to challenging these applications. Moreover, rather than resisting, CSP should encourage a full review of the issue. That way CSP can claim *res judicata* should this issue arise as its application go forward in the registration process. CSP is not prejudiced by having an issue decided sooner rather than later.

In sharp contrast, both the Board and the Registrants could be inconvenienced should the Board postpone the issue of CSP's statutory right to bring this action. If the Board were later found to lack jurisdiction, then all subsequent findings by the Board in this cancellation proceeding will have to be vacated. The efforts taken by all parties will have been a complete waste of time.

B. CASES CITE THE SUSPENSION OF PETITIONER'S APPLICATION AS PROVIDING A STATUTORY CAUSE OF ACTION, BUT THEY ARE INAPPOSITE HERE BECAUSE THE ISSUE OF APPLICATION VALIDITY WAS NEVER RAISED

There are several cases in which the Board explicitly cited the suspension of Petitioner's pending applications as grounds to support Petitioners statutory cause of action. See e.g. *Empresa Cubana del Tabaco v. General Cigar Co.*, 753 F.3d 1270 (Fed. Cir. 2014); *Hole-In-1 Drinks, Inc. v. Lajtay*, 2020 USPQ2d 10020, at *3 (TTAB 2020); *ShutEmDown Sports Inc. v. Lacy*, 102 USPQ2d

1036, 1041 (TTAB 2012); *Kallamni v. Khan*, 101 USPQ2d 1864, 1865 (TTAB 2012); *Mattel Inc. v. Brainy Baby Co.*, 101 USPQ2d 1140, 1142 (TTAB 2011).

As stated previously, these cases stand for an obvious proposition. When a registered trademark causes the suspension of a Petitioner's application, the Petitioner has an interest in that registration and thus a right to seek cancelation of that registration. But these cases are no help to Petitioner CSP. In none of these cases was a Petitioner's application challenged as void. Also, no case entitles a Petitioner to an un rebuttable presumption to a statutory cause of action. Indeed, Petitioner has an ongoing burden of proof to establish its right to a statutory cause of action. If Defendant rebuts Petitioner's *prima facie* showing, as here, Petitioner must either provide additional evidence or lose.

C. JURISDICTIONAL DISCOVERY MATTERS

Defendant prefers this matter be decided on the pleadings in a motion to dismiss. The only matters outside of the pleadings are already in the public record and are largely Petitioner's own admissions. Nevertheless, Defendant will cooperate with the Board should it decide the matter is best addressed on summary judgment. On jurisdictional matters, when the Board decides to convert a motion to dismiss to a motion for summary judgement, the Board has allowed the conversion so long as the parties are given reasonable opportunity to present all material that is pertinent to the motion. *Chutter, Inc. v. Great Concepts, LLC*, 119 USPQ2d 1865, 1870 n.9 (TTAB 2016).

But Defendant maintains that this is unnecessary. Petitioner CSP's own statements decide this case. Surely CSP does not need a chance to cross-examine itself.

D. COMICSGATE USE AS A SERVICE MARK FOR PROMOTING COMICS IS CONFUSINGLY SIMILAR TO USE AS A TRADEMARK FOR COMICS

Note that Defendant uses Comicsgate primarily as a service mark, used in promoting sales of independent comic books. CSP's applications, on the other hand, use Comicsgate as a trademark for comic books. This is a distinction without a difference. The earlier service mark (promoting comics) precludes the use of the latter trademark (for comics) because the two uses are confusingly similar and cannot coexist in the market under different ownership. This is true as

a matter of common sense and as admitted by CSP. See e.g. Ex 9 at 3 (CSP, Poulter threat, “I am working for the destruction of #comicsgate,” is not limited to the destruction of a comic book trademark but includes destruction of the service mark.)

VI. CONCLUSION

In view of the above, we move the board (1) find CSP’s applications, Ser. No. 88/872,841, filed April 15, 2020 and Ser No. 88/925,542, filed May 20, 2020 void *ab initio* because Petitioner CSP is not the proper party with the intent-to-use the mark Comicsgate, (2) dismiss this cancellation proceeding because without its Comicsgate applications Petitioner CSP has no statutory cause of action and (3) take any other action the Board finds just and proper.

Dated: August 2, 2021

Respectfully Submitted,

/s/ Scott Houtteman
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Attorney for Registrant

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing MOTION TO DISMISS and attachments, have been served by email to: Francis John Ciaramella, Esquire at frank@fjcpllc.com via the TTAB’s ESTTA filing system on August 2, 2021.

/s/ Scott Houtteman

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

COMMON SENSE PRESS INC
DBA POCKET JACKS COMICS
Petitioner-Plaintiff

v.

ANTONIO J. MALPICA, and
ETHAN VAN SCIVER
Registrants-Defendants

Cancellation No. 92075375

DECLARATION OF SCOTT HOUTTEMAN

I, Scott Houtteman, declare as follows:

1. I am an attorney of record in this cancellation proceeding and I am knowledgeable about all documents and legal issues pertaining to this opposition.
2. The following exhibits are true and correct copies of the public record.
3. **Exhibit 1** is a true and correct copy of Petitioner's Trademark Application Ser. No. 88872841, filed April 15, 2020
4. **Exhibit 2** is a true and correct copy of Petitioner's Trademark Application Ser. No. 88925542, filed May 20, 2020
5. **Exhibit 3** is a true and correct copy of the record of early uses of Comicsgate in commerce (promoting crowdfunding of comic books) by Defendant Ethan Van Sciver. Page 1 is the **July 12, 2018**, 2 hr. 57.11 min. livestream on Defendant's YouTube Channel, COMICARTISTSPRO SECRETS, available as a specimen in Defendant's trademark application (Ex. 4) and publicly available at <<https://www.youtube.com/>

watch?v=nepXQKPQKjY>. Page 2 is a **July 28, 2018** Tweet available as a specimen in Defendant's trademark application (Ex. 4) and also publicly available at <<https://twitter.com/EthanVanSciver/status/1023268999231164419>>. Pages 3-5 are the promoted comic books discussed in the **July 12, 2018** livestream.

6. **Exhibit 4** is a true and correct copy of Defendant's Trademark Application, Ser. No. 90648096, filed April 15, 2021 (pages Bates Stamped).

7. **Exhibit 5** is a true and correct copy of a Texas Secretary of State's public record of Common Sense Press, Inc., the Petitioner, showing Preston Poulter listed as the Registered Agent.

8. **Exhibit 6** is a true and correct copy of the relevant public record of Petitioner. Pages 1-2 is the **Jan. 7, 2019**, 11.16 min livestream on Petitioner's YouTube channel POCKET JACKS COMICS available at <https://www.youtube.com/watch?v=vuyZP3tslRI&t=53s> followed by a transcript of the relevant portion of the livestream. Pages 3-4 is the **Jan. 9, 2019**, 11.01 min livestream on Petitioner's YouTube channel, available at <<https://www.youtube.com/watch?v=qKaLO1F9fCg&t=83s>> followed by a transcript of the relevant portion of the livestream. Page 5 is the **Aug. 8, 2019**, 17.26 min livestream on Petitioner's YouTube channel, available at <<https://www.youtube.com/watch?v=YAAqrlbNvTY&t=258s>> followed by a transcript of the relevant portion of the livestream.

9. **Exhibit 7** is a true and correct portion of the public record of Comicgate associated crowdfunding of independent comic book "Brand" by Antonio Brice et al.

relating to Petitioner's admissions on this subject from Ex. 6. Page 1 is the **Oct. 17, 2018**, 2 hr. 34.35 min livestream on Defendant Ethan Van Sciver's YouTube channel available at <<https://www.youtube.com/watch?v=QfRCa5QQp80&t=5853s>> (emphasis added) ("Brand" among eight (8) comic book promotions during that livestream). Page 2 is the crowdfunding site, Indiegogo for the "Brand" campaign available at <[https://www.indiegogo.com/projects/brand-by-antonio-brice-and-caanan-white#/>](https://www.indiegogo.com/projects/brand-by-antonio-brice-and-caanan-white#/) (advertising removed) showing \$78,031 raised.

10. **Exhibit 8** is a true and correct **Dec. 23, 2018** article in the popular digital magazine, Bleeding Cool, showing Comicsgate now associated in the marketplace with Ethan Van Sciver (emphasis added).

11. **Exhibit 9** is a true and correct collection of Tweets from July 7, 2019 to Nov. 17, 2019 by Petitioner publicly available at the links indicated in the exhibit.

12. **Exhibit 10** is a true and correct copy of the website <<https://creatorgo.com/cg/>> a Comicsgate fan project tracking Comicsgate associated 2020 and 2021 Indiegogo crowdfunding campaigns of independent comic books.

I declare under penalty of perjury that the foregoing is true and correct and, if sworn as a witness, I could and would testify thereto.

Dated this 2nd day of August 2021 at Fairfax City, VA USA.

/Scott Houtteman/
Scott Houtteman

EXHIBIT 1

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.
PTO Form 1478 (Rev 09/2006)
OMB No. 0651-0009 (Exp 02/28/2021)

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 88872841

Filing Date: 04/15/2020

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	COMICSGATE
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	COMICSGATE
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Common Sense Press Inc
DBA/AKA/TA/FORMERLY	DBA Pocket Jacks Comics
*MAILING ADDRESS	12471 WOOD MANOR CIR
*CITY	DALLAS
*STATE (Required for U.S. applicants)	Texas
*COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
*ZIP/POSTAL CODE (Required for U.S. and certain international addresses)	75234
*EMAIL ADDRESS	XXXX
LEGAL ENTITY INFORMATION	
*TYPE	CORPORATION
*STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY OF INCORPORATION	Texas
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	016
*IDENTIFICATION	Comic books
*FILING BASIS	SECTION 1(b)

ADDITIONAL STATEMENTS INFORMATION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
ATTORNEY INFORMATION	
NAME	Francis John Ciaramella, Esquire
ATTORNEY BAR MEMBERSHIP NUMBER	XXX
YEAR OF ADMISSION	XXXX
U.S. STATE/ COMMONWEALTH/ TERRITORY	XX
FIRM NAME	Francis John Ciaramella, PLLC
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CITY	Jupiter
STATE	Florida
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FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	1
APPLICATION FOR REGISTRATION PER CLASS	225
*TOTAL FEES DUE	225
*TOTAL FEES PAID	225
SIGNATURE INFORMATION	
* SIGNATURE	/Francis John Ciaramella/
* SIGNATORY'S NAME	Francis John Ciaramella, Esquire
* SIGNATORY'S POSITION	Attorney of Record, Florida Bar Member
SIGNATORY'S PHONE NUMBER	561-295-7325
* DATE SIGNED	04/15/2020

Trademark/Service Mark Application, Principal Register

TEAS Plus Application

Serial Number: 88872841

Filing Date: 04/15/2020

To the Commissioner for Trademarks:

MARK: COMICSGATE (Standard Characters, see [mark](#))

The literal element of the mark consists of COMICSGATE. The mark consists of standard characters, without claim to any particular font style, size, or color.

The applicant, Common Sense Press Inc, DBA Pocket Jacks Comics, a corporation of Texas, having an address of
12471 WOOD MANOR CIR
DALLAS, Texas 75234
United States
XXXX

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 016: Comic books

Intent to Use: The applicant has a bona fide intention, and is entitled, to use the mark in commerce on or in connection with the identified goods/services. (15 U.S.C. Section 1051(b)).

The owner's/holder's proposed attorney information: Francis John Ciaramella, Esquire. Francis John Ciaramella, Esquire of Francis John Ciaramella, PLLC, is a member of the XX bar, admitted to the bar in XXXX, bar membership no. XXX, is located at
110 Front Street, Suite 300
Jupiter, Florida 33477
United States
561-295-7325(phone)
frank@fjcpllc.com

Francis John Ciaramella, Esquire submitted the following statement: The attorney of record is an active member in good standing of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory.

The applicant's current Correspondence Information:

Francis John Ciaramella, Esquire

PRIMARY EMAIL FOR CORRESPONDENCE: frank@fjcpllc.com

SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): NOT PROVIDED

Requirement for Email and Electronic Filing: I understand that a valid email address must be maintained by the applicant owner/holder and the applicant owner's/holder's attorney, if appointed, and that all official trademark correspondence must be submitted via the Trademark Electronic Application System (TEAS).

A fee payment in the amount of \$225 has been submitted with the application, representing payment for 1 class(es).

Declaration

☒ **Basis:**

If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;

- The mark is in use in commerce and was in use in commerce as of the filing date of the application on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application and was used on or in connection with the goods/services in the application as of the application filing date; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

And/Or

If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
- The applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date on or in connection with the goods/services in the application; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

☒ To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.

☒ To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.

☒ The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Francis John Ciaramella/ Date: 04/15/2020
 Signatory's Name: Francis John Ciaramella, Esquire
 Signatory's Position: Attorney of Record, Florida Bar Member
 Signatory's Phone Number: 561-295-7325
 Payment Sale Number: 88872841
 Payment Accounting Date: 04/15/2020

Serial Number: 88872841
 Internet Transmission Date: Wed Apr 15 12:47:49 ET 2020
 TEAS Stamp: USPTO/FTK-XX.XXX.XX.XX-20200415124749066
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 6e1c651ed1a5eac6312b62e318f74368b9f23b6-
 CC-47471903-20200415123006760900

COMICSGATE

EXHIBIT 2

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number.
PTO Form 1480 (Rev 09/2006)
OMB No. 0651-0009 (Exp 02/28/2021)

Certification Mark Form, Principal Register

Serial Number: 88925542

Filing Date: 05/20/2020

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	88925542
MARK INFORMATION	
*MARK	COMICSGATE
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	COMICSGATE
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Common Sense Press Inc
DBA/AKA/TA/Formerly	DBA Pocket Jacks Comics
*MAILING ADDRESS	12471 WOOD MANOR CIR
*CITY	DALLAS
*STATE (Required for U.S. applicants)	Texas
*COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
*ZIP/POSTAL CODE (Required for U.S. and certain international addresses)	75234
*EMAIL ADDRESS	XXXX
LEGAL ENTITY INFORMATION	
TYPE	corporation
STATE/COUNTRY/REGION/JURISDICTION/U.S. TERRITORY OF INCORPORATION	Texas
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	A
*IDENTIFICATION	Comic Books conforming to the certification standards as indicated by a Certification Mark
FILING BASIS	SECTION 1(b)
CERTIFICATION	
*CERTIFICATION STATEMENT	The certification mark, as used or intended to be used by persons authorized by the certifier, certifies or is intended to certify that the services provided have met certain standards,

	tests of competency and/or completed training established by the certifier.
ATTORNEY INFORMATION	
NAME	Francis John Ciaramella, Esquire
ATTORNEY BAR MEMBERSHIP NUMBER	XXX
YEAR OF ADMISSION	XXXX
U.S. STATE/ COMMONWEALTH/ TERRITORY	XX
FIRM NAME	Francis John Ciaramella, PLLC
STREET	110 Front Street, Suite 300
CITY	Jupiter
STATE	Florida
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
ZIP/POSTAL CODE	33477
PHONE	561-295-7325
EMAIL ADDRESS	frank@fjcpllc.com
CORRESPONDENCE INFORMATION	
NAME	Francis John Ciaramella, Esquire
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	frank@fjcpllc.com
SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	NOT PROVIDED
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Standard
NUMBER OF CLASSES	1
APPLICATION FOR REGISTRATION PER CLASS	275
*TOTAL FEES DUE	275
*TOTAL FEES PAID	275
SIGNATURE INFORMATION	
SIGNATURE	/Francis John Ciaramella/
SIGNATORY'S NAME	Francis John Ciaramella, Esquire
SIGNATORY'S POSITION	Attorney of Record, Florida Bar Member
SIGNATORY'S PHONE NUMBER	561-295-7325
DATE SIGNED	05/20/2020

Certification Mark Form, Principal Register

Serial Number: 88925542

Filing Date: 05/20/2020

To the Commissioner for Trademarks:

MARK: COMICSGATE (Standard Characters, see [mark](#))

The literal element of the mark consists of COMICSGATE. The mark consists of standard characters, without claim to any particular font style, size, or color.

The applicant, Common Sense Press Inc, DBA Pocket Jacks Comics, a corporation of Texas, having an address of
12471 WOOD MANOR CIR
DALLAS, Texas 75234
United States
XXXX

requests that the Certification Mark identified above be registered with the USPTO on the Principal Register for the following:

International Class A: Comic Books conforming to the certification standards as indicated by a Certification Mark

Use in Commerce: The applicant has a bona fide intention, and is entitled, to exercise legitimate control over the use of the certification mark in commerce by its authorized users on or in connection with the identified goods/services. The applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant. The applicant will later provide with the filing of an Allegation of Use (Amendment to Allege Use/Statement of Use) a copy of the standards governing the use of the certification mark on or in connection with the goods/services in the application.

Certification Statement: The certification mark, as used or intended to be used by persons authorized by the certifier, certifies or is intended to certify that the services provided have met certain standards, tests of competency and/or completed training established by the certifier.

The owner's/holder's proposed attorney information: Francis John Ciarabella, Esquire. Francis John Ciarabella, Esquire of Francis John Ciarabella, PLLC, is a member of the XX bar, admitted to the bar in XXXX, bar membership no. XXX, is located at
110 Front Street, Suite 300
Jupiter, Florida 33477
United States
561-295-7325(phone)
frank@fjcpllc.com

Francis John Ciarabella, Esquire submitted the following statement: The attorney of record is an active member in good standing of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory.

The applicant's current Correspondence Information:

Francis John Ciarabella, Esquire

PRIMARY EMAIL FOR CORRESPONDENCE: frank@fjcpllc.com

SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): NOT PROVIDED

Requirement for Email and Electronic Filing: I understand that a valid email address must be maintained by the applicant owner/holder and the applicant owner's/holder's attorney, if appointed, and that all official trademark correspondence must be submitted via the Trademark Electronic Application System (TEAS).

A fee payment in the amount of \$275 has been submitted with the application, representing payment for 1 class(es).

Declaration

☒ **Basis:**

If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the certification mark sought to be registered;

- The applicant is exercising legitimate control over the use of the mark in commerce by authorized users, and was exercising legitimate control over the use of the mark in commerce as of the filing date of the application by authorized users, on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used in commerce by authorized users on or in connection with the goods/services in the application and was used by authorized users on or in connection with the goods/services in the application as of the application filing date;
- The applicant is not engaged in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

AND/OR

If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d), and/or § 1126(e):

- The signatory believes that the applicant is entitled to exercise legitimate control over the use of the mark in commerce by authorized users, and was entitled to exercise legitimate control over the use of the mark in commerce by authorized users, as of the filing date of the application;
- The applicant has a bona fide intention to exercise legitimate control over the use of the mark in commerce by authorized users, and had a bona fide intention to exercise legitimate control over the use of the mark in commerce by authorized users as of the filing date of the application, on or in connection with the goods/services in the application;
- The applicant will not engage in the production or marketing of the goods/services to which the mark is applied, except to advertise or promote recognition of the certification program or of the goods/services that meet the certification standards of the applicant; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

☒ To the best of the signatory's knowledge and belief, no other persons, other than authorized users, and, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.

☒ To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.

☒ The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Francis John Ciamarella/ Date: 05/20/2020
 Signatory's Name: Francis John Ciamarella, Esquire
 Signatory's Position: Attorney of Record, Florida Bar Member
 Payment Sale Number: 88925542
 Payment Accounting Date: 05/20/2020

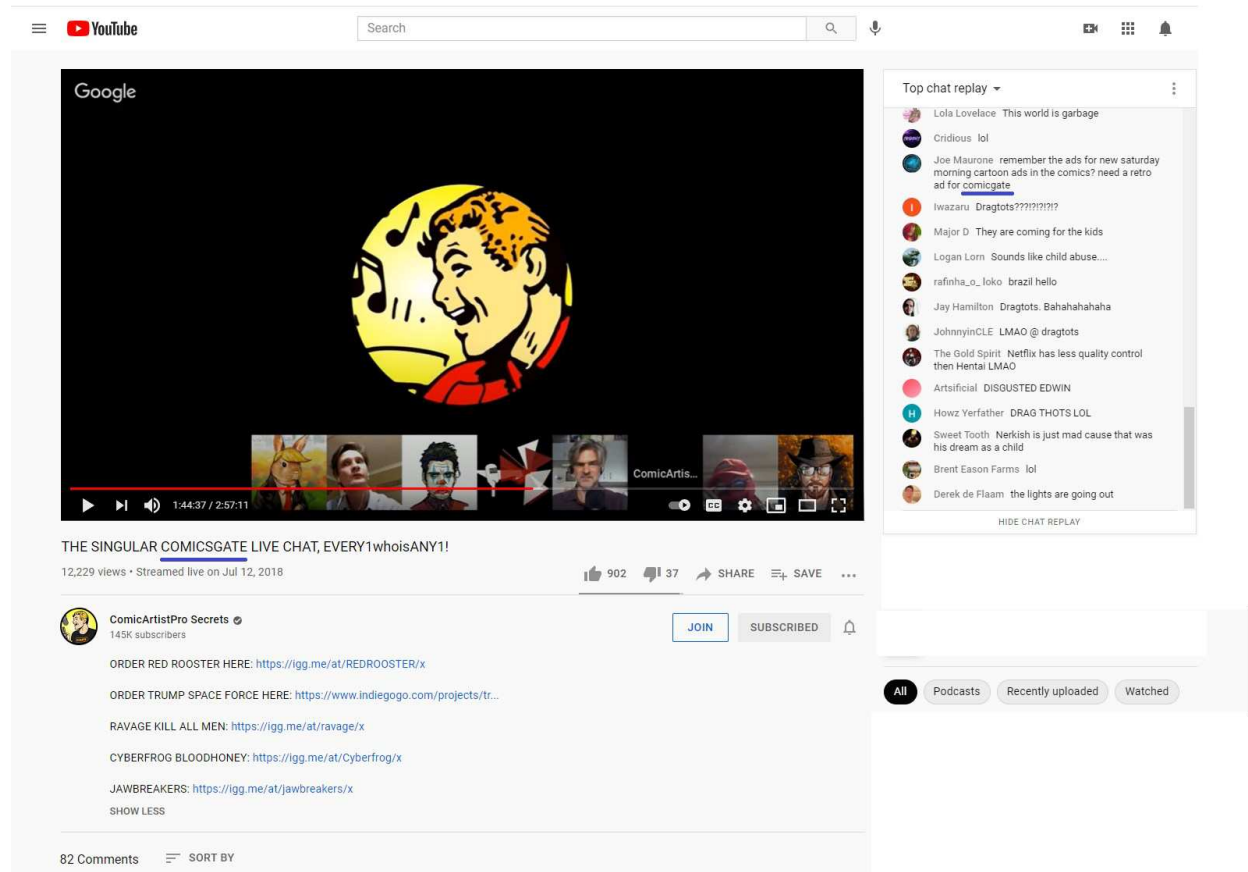
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COMICSGATE

EXHIBIT 3

JULY 12, 2018 - COMICSGATE used to promote Indiegogo crowdfunding campaigns of five (5) independent comic books:

- Specimen, Defendant's U.S. Trademark Application Ser. No. 90648096 (supplemented by reference to associated public record on YouTube; Current version, see YouTube Channel, COMICARTISTSPRO SECRETS, 2 hr, 57.11 min livestream entitled "THE SINGULAR COMICSGATE LIVE CHAT, EVERY1whoisANY1!" broadcast on July 12, 2018, <<https://www.youtube.com/watch?v=nepXQKPQKjY>>, last visited on July 26, 2021 (screenshot, at 1:44.37, below, emphasis added).



Each link, above, connects to the Indiegogo crowdfunding campaign of an independent comic book creator, as shown on the following pages (advertising material removed) along with the final total funds raised, shown immediately below:

(1) RED ROOSTER	\$197,434
(2) TRUMP'S SPACE FORCE	\$72,517
(3) RAVAGE KILL ALL MEN	\$47,881
(4) CYBERFROG BLOODHONEY	\$538,456
(5) JAWBREAKERS	\$404,913
TOTAL	\$1,261,201

EXHIBIT 3

JULY 28, 2018, COMICSGATE used to promote Indiegogo crowdfunding campaign on Twitter

-Specimen, Defendant's U.S. Trademark application No. 90648096

(Current version, <https://twitter.com/EthanVanSciver/status/1023268999231164419>)

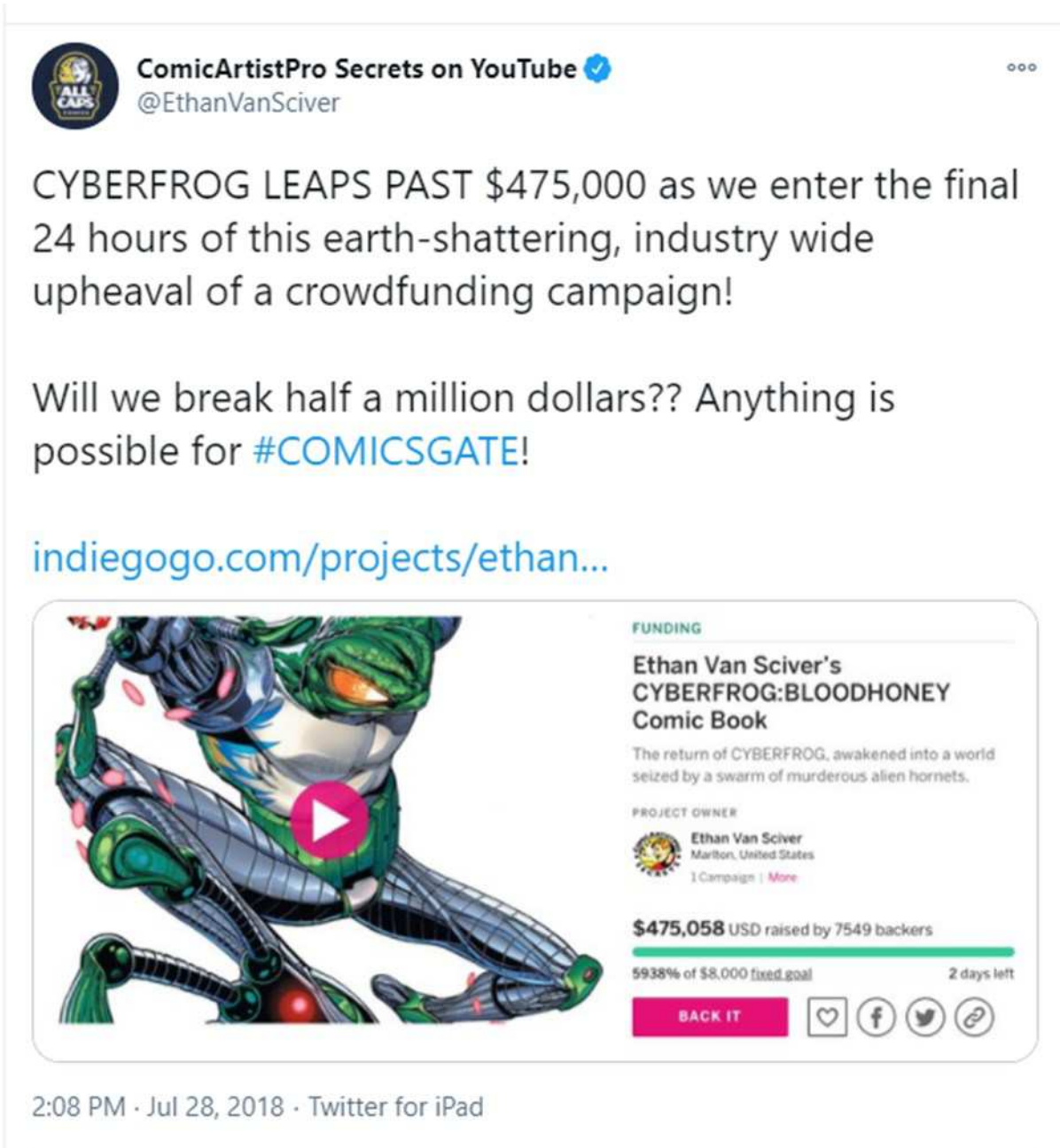


EXHIBIT 3

(1) RED ROOSTER: <https://www.indiegogo.com/projects/red-rooster-golden-age#/>


INDIEGOGO Explore ▾ What We Do 🔍

For Entrepreneurs Start a Campaign Log In Sign Up

THIS CAMPAIGN IS CLOSED

RED ROOSTER: Golden Age

ABOUT THIS CAMPAIGN




MITCH BREITWEISER'S
RED ROOSTER
WITH MARK PELLEGRINI & ELIZABETH BREITWEISER

CLOSED


RED ROOSTER: Golden Age




A vigilante folk hero barnstorms a cabal of villains hellbent on leaving him totally plucked!

 **Mitch & Elizabeth Breitweiser**
2 Campaigns | Little Rock, United States

\$197,434 USD by 3,582 backers

\$163,515 USD by 2,819 backers on Aug 24, 2018

 FOLLOW

STORY FAQ UPDATES 41 COMMENTS 801

(2) TRUMP SPACE FORCE: <https://www.indiegogo.com/projects/trump-s-space-force#/>


INDIEGOGO Explore ▾ What We Do 🔍

For Entrepreneurs Start a Campaign Log In Sign Up

THIS CAMPAIGN IS CLOSED

TRUMP'S SPACE FORCE

ABOUT THIS CAMPAIGN




TRUMP'S SPACE FORCE

CLOSED


TRUMP'S SPACE FORCE

President Trump launches the Space Force to confront an ancient enemy and Make Space Great Again!

 **TIMOTHY LIM**
10 Campaigns | Little Rock, United States

\$72,517 USD 1,605 backers

483% of \$15,000 Fixed Goal

 FOLLOW




  

EXHIBIT 3

(3) RAVAGE KILL ALL MEN: <https://www.indiegogo.com/projects/ravage-kill-all-men#/>


INDIEGOGO Explore ▾ What We Do 🔍


For Entrepreneurs Start a Campaign Log In Sign Up

THIS CAMPAIGN IS CLOSED

RAVAGE - KILL ALL MEN!

ABOUT THIS CAMPAIGN






CLOSED




RAVAGE - KILL ALL MEN!

Two Army Veterans crash in a mystical jungle populated by a lost tribe of Women that hunt MEN!

 Big Ben Henderson
2 Campaigns | Jacksonville, United States

\$47,881 USD by 1,738 backers
\$36,808 USD by 1,314 backers on Jul 16, 2018

FOLLOW

STORY FAQ UPDATES 44 COMMENTS 284

(4) CYBERFROG BLOODHONEY: <https://www.indiegogo.com/projects/ethan-van-sciver-s-cyberfrog-bloodhoney-comic-book#/>


INDIEGOGO Explore ▾ What We Do 🔍

For Entrepreneurs Start a Campaign Log In Sign Up

THIS CAMPAIGN IS CLOSED

Ethan Van Sciver's CYBERFROG:BLOODHONEY Comic Book


ABOUT THIS CAMPAIGN



CLOSED




Ethan Van Sciver's CYBERFROG:BLOODHONEY Comic Book

The return of CYBERFROG, awakened into a world seized by a swarm of murderous alien hornets.

 Ethan Van Sciver
18 Campaigns | Marilton, United States

\$538,456 USD by 8,566 backers
\$531,521 USD by 8,431 backers on Jul 30, 2018

FOLLOW

STORY FAQ UPDATES 35 COMMENTS 1382

EXHIBIT 3

(5) JAWBREAKERS: <https://www.indiegogo.com/projects/jawbreakers-lost-souls-graphic-novel#/>


INDIEGOGO Explore ▾ What We Do Q

For Entrepreneurs Start a Campaign Log In Sign Up

THIS CAMPAIGN IS CLOSED

JAWBREAKERS- LOST SOULS graphic novel


ABOUT THIS CAMPAIGN




CLOSED




JAWBREAKERS- LOST SOULS graphic novel

A team of ex-superheroes attempt to save a "monster" from a vicious warlord who wants to exploit it!

 **Richard Meyer**
17 Campaigns | Austin, United States

\$404,913 USD by 10,619 backers
\$193,279 USD by 5,362 backers on May 10, 2018

 FOLLOW

STORY FAQ UPDATES 35 COMMENTS 1743

EXHIBIT 4

Generated on: This page was generated by TSDR on 2021-07-29 20:33:06 EDT

Mark: COMICSGATE

COMICSGATE

US Serial Number: 90648096

Application Filing Date: Apr. 15, 2021

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Service Mark

TM5 Common Status Descriptor:



LIVE/APPLICATION/Awaiting Examination

The trademark application has been accepted by the Office (has met the minimum filing requirements) and has not yet been assigned to an examiner.

Status: New application will be assigned to an examining attorney approximately 3 months after filing date.

Status Date: Jul. 22, 2021

Mark Information

Mark Literal Elements: COMICSGATE

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Disclaimer: "COMICS"

Related Properties Information

Claimed Ownership of US Registrations: 6102744

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Providing an on-line forum for social commentary and criticism among computer users, in particular comic book creators and their fans; Streaming of video material on the Internet; Electronic transmission and streaming of digital media content for others via global and local computer networks; Transmission of podcasts

International Class(es): 038 - Primary Class

U.S Class(es): 100, 101, 104

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 12, 2018

Use in Commerce: Jul. 12, 2018

For: Entertainment services, namely, providing video podcasts in the field of comics and the comic book industry; Entertainment services, namely, providing webcasts in the field of comics and the comic book industry; Entertainment services, namely, the provision of continuing shows featuring comic and comic book creators delivered by the internet; Organizing, arranging, and conducting virtual telethons and crowdfunding events; Organizing, arranging, and conducting online and live comics and comic books related events; Providing information and news in the field of current events relating to comics and the comic book industry; Providing online non-downloadable comics; Providing online non-downloadable electronic publications in the nature of online videos, website and posts on social media platforms in the field of comics and the comic book industry; Providing online non-downloadable videos in the field of comics and the comic book industry; Provision of information in the field of leisure activities, namely, comics and comic books; Entertainment services, namely, providing podcasts in the field of comics and comic books

EVS000101

International Class(es): 041 - Primary Class

U.S Class(es): 100, 101, 107

Class Status: ACTIVE

Basis: 1(a)

First Use: Jul. 02, 2018

Use in Commerce: Jul. 02, 2018

Basis Information (Case Level)

Filed Use: Yes

Currently Use: Yes

Filed ITU: No

Currently ITU: No

Filed 44D: No

Currently 44E: No

Filed 44E: No

Currently 66A: No

Filed 66A: No

Currently No Basis: No

Filed No Basis: No

Current Owner(s) Information

Owner Name: Sciver, Ethan Van

Owner Address: PO Box 607
Marlton, NEW JERSEY UNITED STATES 08053

Legal Entity Type: INDIVIDUAL

Citizenship: UNITED STATES

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Scott Houtteman

Docket Number: 482.001

Attorney Primary Email Address: bekdocket@gmail.com

Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: SCOTT HOUTTEMAN
HOUTTEMAN LAW LLC
PO BOX 370
MERRIFIELD, VIRGINIA UNITED STATES 22116

Phone: 202-263-0808

Correspondent e-mail: bekdocket@gmail.com scott@houtteman.com

Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Jul. 23, 2021	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Apr. 19, 2021	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

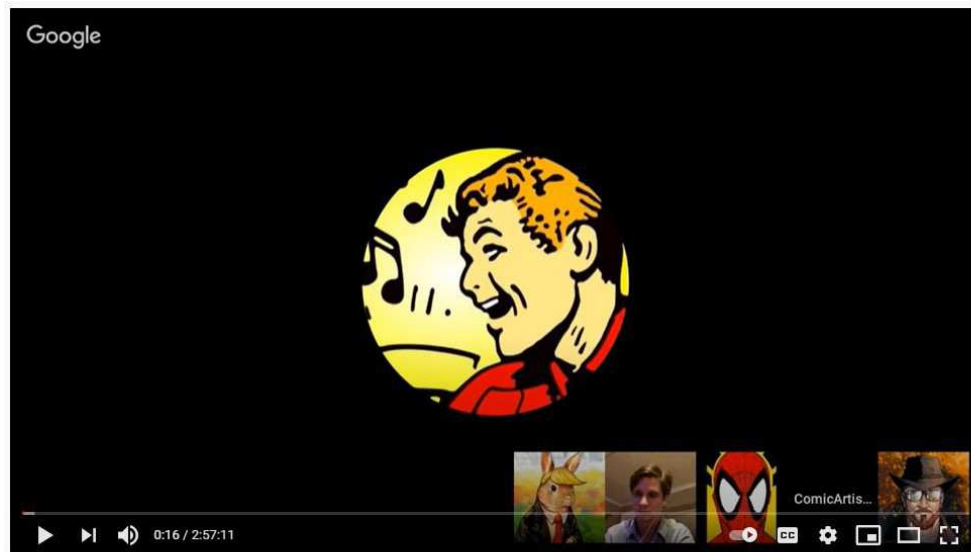
TM Staff Information - None

File Location

Current Location: NEW APPLICATION PROCESSING

Date in Location: Jul. 22, 2021

COMICSGATE



THE SINGULAR COMICSGATE LIVE CHAT, EVERY1whoisANY1!

12,201 views • Streamed live on Jul 12, 2018

903 37 SHARE SAVE ...



ComicArtistPro Secrets
147K subscribers

JOIN

SUBSCRIBED



ORDER RED ROOSTER HERE: <https://igg.me/at/REDROOSTER/x>

ORDER TRUMP SPACE FORCE HERE: <https://www.indiegogo.com/projects/tr...>

RAVAGE KILL ALL MEN: <https://igg.me/at/ravage/x>

CYBERFROG BLOODHONEY: <https://igg.me/at/Cyberfrog/x>

JAWBREAKERS: <https://igg.me/at/jawbreakers/x>

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82 Comments

SORT BY

Top chat replay



Dark Admiral March Hare
\$1.99

PLUGS Out for TUG



Jethro Fawkes
\$2.00

Did Seth Green/Robot Chicken buy \$1K Space Trump?

- Sub if you are against Antifa and BLM im here
- John Robertson TREBUCHETS FOR ALL
- Method Imao nice
- Henry Dorsett Case I'm an everyone is who is anyone!
- Lord Henry 17 yo yo
- Pete Mac Ready Red Leader
- Todd Jolly Uncle ethan what up
- Deyrolle Hello all
- With a z Cooper Hello

HIDE CHAT REPLAY



Become a legend

Ad hero-wars.com/play_free_now

TRY NOW

All From your search Live Recently uploaded



Saagar Enjeti: NYT FALSELY Claims 'Lab Leak' Theory...
The Hill
137K views • 2 days ago
New



Mix - ComicArtistPro Secrets
YouTube



ComicArtistPro Secrets on YouTube

@EthanVanSciver

...

CYBERFROG LEAPS PAST \$475,000 as we enter the final 24 hours of this earth-shattering, industry wide upheaval of a crowdfunding campaign!

Will we break half a million dollars?? Anything is possible for #COMICSGATE!

indiegogo.com/projects/ethan...



FUNDING

Ethan Van Sciver's CYBERFROG:BLOODHONEY Comic Book

The return of CYBERFROG, awakened into a world seized by a swarm of murderous alien hornets.

PROJECT OWNER



Ethan Van Sciver
Marion, United States
[Campaign](#) [More](#)

\$475,058 USD raised by 7549 backers

5938% of \$8,000 fixed goal

2 days left

BACK IT



2:08 PM · Jul 28, 2018 · Twitter for iPad



ComicArtistPro Secrets on YouTube 
@EthanVanSciver

...

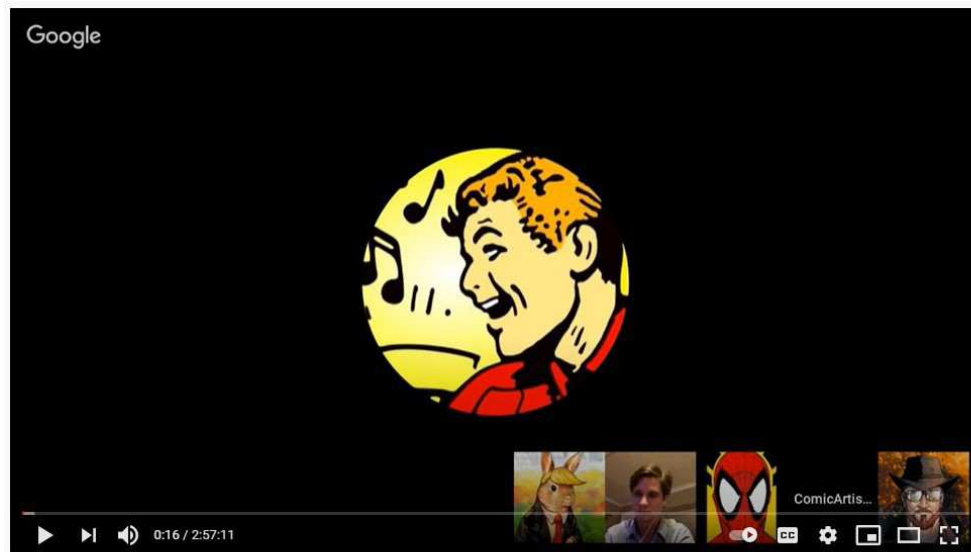
And we're fully funded in 8 minutes! Thanks,
[#Comicsgate!!](#)



ComicArtistPro Secrets on YouTube  @EthanVanSciver · Aug 29, 2018

We relaunched CYBERFROG BLOODHONEY with a brand new exclusive variant cover! For those who missed out, you've got one week!
twitter.com/EthanVanSciver...

12:09 PM · Aug 29, 2018 · Twitter for iPad



THE SINGULAR COMICSGATE LIVE CHAT, EVERY1whoisANY1!

12,201 views · Streamed live on Jul 12, 2018

903 37 SHARE SAVE ...



ComicArtistPro Secrets
147K subscribers

JOIN

SUBSCRIBED



ORDER RED ROOSTER HERE: <https://igg.me/at/REDROOSTER/x>

ORDER TRUMP SPACE FORCE HERE: <https://www.indiegogo.com/projects/tr...>

RAVAGE KILL ALL MEN: <https://igg.me/at/ravage/x>

CYBERFROG BLOODHONEY: <https://igg.me/at/Cyberfrog/x>

JAWBREAKERS: <https://igg.me/at/jawbreakers/x>

SHOW LESS

82 Comments

SORT BY

Top chat replay



Dark Admiral March Hare
\$1.99

PLUGS Out for TUG



Jethro Fawkes
\$2.00

Did Seth Green/Robot Chicken buy \$1K Space Trump?



Sub if you are against Antifa and BLM im here



John Robertson TREBUCHETS FOR ALL



Method Imao nice



Henry Dorsett Case I'm an everyone is who is anyone!



Lord Henry 17 yo yo



Pete Mac Ready Red Leader



Todd Jolly Uncle ethan what up



Deyrolle Hello all



With a z Cooper Hello

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@EthanVanSciver

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CYBERFROG LEAPS PAST \$475,000 as we enter the final 24 hours of this earth-shattering, industry wide upheaval of a crowdfunding campaign!

Will we break half a million dollars?? Anything is possible for #COMICSGATE!

indiegogo.com/projects/ethan...



FUNDING

Ethan Van Sciver's
CYBERFROG:BLOODHONEY
Comic Book

The return of CYBERFROG, awakened into a world seized by a swarm of murderous alien hornets.

PROJECT OWNER



Ethan Van Sciver
Marion, United States
[Campaign] [More]

\$475,058 USD raised by 7549 backers

5938% of \$8,000 fixed goal

2 days left

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2:08 PM · Jul 28, 2018 · Twitter for iPad



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And we're fully funded in 8 minutes! Thanks,
[#Comicsgate!!](#)

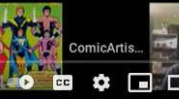


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ComicArtistPro Secrets
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Pledge to CYBERFROG BLOODHONEY HERE! <https://igg.me/at/Cyberfrog/x>

576 Comments

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Ethan - Do not change One bit. There is a reason you are gaining support and getting success. Its not because of SJW or PC principles, please do not bend for these guys at all.

91



REPLY

Top chat replay



- Thee Ouroborobelisk 17 minutes late
- Roy Rogers WOW!
- Metalllhead WOW
- Thomas Anderson lame
- Drathicus Rex Woooooooooooooooooooo
- Kevin Chan @CECIL is D.I.C.K & Comics Hey, Cecil!
- Michael Giuffre CECIL
- Proved What You Are JIM
- Humphrey Bear howdy
- Trajan Why is Edwin there?
- Marz10 How much autism is this?
- Somni what up everyone
- Dave Hey
- James Gochnour Oh sl t, it begins
- Jane Smith ya boy zack

HIDE CHAT REPLAY

All

Comic books

Podcasts

Recently upl



Trademark/Service Mark Application, Principal Register**TEAS Plus Application****Serial Number: 90648096****Filing Date: 04/15/2021**

NOTE: Data fields with the * are mandatory under TEAS Plus. The wording "(if applicable)" appears where the field is only mandatory under the facts of the particular application.

The table below presents the data as entered.

Input Field	Entered
TEAS Plus	YES
MARK INFORMATION	
*MARK	COMICSGATE
*STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	COMICSGATE
*MARK STATEMENT	The mark consists of standard characters, without claim to any particular font style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Sciver, Ethan Van
*MAILING ADDRESS	PO Box 607
*CITY	Marlton
*STATE (Required for U.S. applicants)	New Jersey
*COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
*ZIP/POSTAL CODE (Required for U.S. and certain international addresses)	08053
PHONE	202-263-0808
*EMAIL ADDRESS	XXXX
LEGAL ENTITY INFORMATION	
*TYPE	INDIVIDUAL
*COUNTRY/REGION/JURISDICTION/U.S. TERRITORY OF CITIZENSHIP	United States
GOODS AND/OR SERVICES AND BASIS INFORMATION	
*INTERNATIONAL CLASS	038
	Providing an on-line forum for social commentary and criticism among computer users, in particular comic book

*IDENTIFICATION	creators and their fans ; Streaming of video material on the Internet; Electronic transmission and streaming of digital media content for others via global and local computer networks; Transmission of podcasts
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 07/12/2018
FIRST USE IN COMMERCE DATE	At least as early as 07/12/2018
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT18\IMAGEOUT18\906\480\90648096\xml1 \ FTK0003.JPG
	\\TICRS\EXPORT18\IMAGEOUT18\906\480\90648096\xml1 \ FTK0004.JPG
	\\TICRS\EXPORT18\IMAGEOUT18\906\480\90648096\xml1 \ FTK0005.JPG
SPECIMEN DESCRIPTION	online and social media print-outs
WEBPAGE URL	https://www.youtube.com/watch?v=nepXQKPQKjY
WEBPAGE DATE OF ACCESS	04/13/2021
*INTERNATIONAL CLASS	041
*IDENTIFICATION	Entertainment services, namely, providing video podcasts in the field of comics and the comic book industry ; Entertainment services, namely, providing webcasts in the field of comics and the comic book industry ; Organizing, arranging, and conducting virtual telethons and crowdfunding events; Organizing, arranging, and conducting online and live comics and comic books related events; Providing information and news in the field of current events relating to comics and the comic book industry ; Providing online non-downloadable comics; Providing online non-downloadable electronic publications in the nature of online videos, website and posts on social media platforms in the field of comics and the comic book industry ; Providing online non-downloadable videos in the field of comics and the comic book industry ; Provision of information in the field of leisure activities, namely, comics and comic books ; Entertainment services, namely, providing podcasts in the field of comics and comic books
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 07/12/2018
FIRST USE IN COMMERCE DATE	At least as early as 07/12/2018
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT18\IMAGEOUT18\906\480\90648096\xml1 \ FTK0006.JPG
	\\TICRS\EXPORT18\IMAGEOUT18\906\480\90648096\xml1 \ FTK0007.JPG
	\\TICRS\EXPORT18\IMAGEOUT18\906\480\90648096\xml1 \ FTK0008.JPG
SPECIMEN DESCRIPTION	online and social media print-outs
WEBPAGE URL	https://www.youtube.com/watch?v=nepXQKPQKjY
WEBPAGE DATE OF ACCESS	04/13/2021
*INTERNATIONAL CLASS	041

*IDENTIFICATION	Entertainment services, namely, the provision of continuing shows featuring comic and comic book creators delivered by the internet
*FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 07/02/2018
FIRST USE IN COMMERCE DATE	At least as early as 07/02/2018
SPECIMEN FILE NAME(S)	\\TICRS\EXPORT18\IMAGEOUT18\906\480\90648096\xml1 \ FTK0009.JPG
SPECIMEN DESCRIPTION	A screen capture of a two and a half hour COMICSGATE YouTube show featuring many comic book creators
WEBPAGE URL	https://www.youtube.com/watch?v=ghG7IYAVj10
WEBPAGE DATE OF ACCESS	04/14/2021
ADDITIONAL STATEMENTS SECTION	
*TRANSLATION (if applicable)	
*TRANSLITERATION (if applicable)	
*CLAIMED PRIOR REGISTRATION (if applicable)	The applicant claims ownership of active prior U.S. Registration Number(s) 6102744.
*CONSENT (NAME/LIKENESS) (if applicable)	
*CONCURRENT USE CLAIM (if applicable)	
DISCLAIMER	No claim is made to the exclusive right to use COMICS apart from the mark as shown.
ATTORNEY INFORMATION	
NAME	Scott Houtteman
ATTORNEY DOCKET NUMBER	482.001
ATTORNEY BAR MEMBERSHIP NUMBER	XXX
YEAR OF ADMISSION	XXXX
U.S. STATE/ COMMONWEALTH/ TERRITORY	XX
FIRM NAME	Houtteman Law LLC
STREET	PO Box 370
CITY	Merrifield
STATE	Virginia
COUNTRY/REGION/JURISDICTION/U.S. TERRITORY	United States
ZIP/POSTAL CODE	22116
PHONE	202-263-0808
EMAIL ADDRESS	bekdocket@gmail.com
CORRESPONDENCE INFORMATION	
NAME	Scott Houtteman
PRIMARY EMAIL ADDRESS FOR CORRESPONDENCE	bekdocket@gmail.com

SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES)	scott@houtteman.com
FEE INFORMATION	
APPLICATION FILING OPTION	TEAS Plus
NUMBER OF CLASSES	2
APPLICATION FOR REGISTRATION PER CLASS	250
* TOTAL FEES DUE	500
* TOTAL FEES PAID	500
SIGNATURE INFORMATION	
* SIGNATURE	/Scott Houtteman/
* SIGNATORY'S NAME	Scott Houtteman
* SIGNATORY'S POSITION	Attorney at Law - VA Bar
SIGNATORY'S PHONE NUMBER	202-263-0808
* DATE SIGNED	04/15/2021
SIGNATURE METHOD	Sent to third party for signature

Trademark/Service Mark Application, Principal Register**TEAS Plus Application****Serial Number: 90648096****Filing Date: 04/15/2021****To the Commissioner for Trademarks:****MARK:** COMICSGATE (Standard Characters, see [mark](#))

The literal element of the mark consists of COMICSGATE. The mark consists of standard characters, without claim to any particular font style, size, or color.

The applicant, Ethan Van Sciver, a citizen of United States, having an address of

PO Box 607

Marlton, New Jersey 08053

United States

202-263-0808(phone)

XXXX

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 038: Providing an on-line forum for social commentary and criticism among computer users, in particular comic book creators and their fans; Streaming of video material on the Internet; Electronic transmission and streaming of digital media content for others via global and local computer networks; Transmission of podcasts

Use in Commerce: The applicant is using the mark in commerce on or in connection with the identified goods/services. The applicant attaches, or will later submit, one specimen as a JPG/PDF image file showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, regardless of whether the mark itself is in the standard character format or is a stylized or design mark. The specimen image file may be in color, and the image must be in color if color is being claimed as a feature of the mark.

In International Class 038, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 07/12/2018, and first used in commerce at least as early as 07/12/2018, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) online and social media print-outs.

[Specimen File1](#)[Specimen File2](#)[Specimen File3](#)

Webpage URL: <https://www.youtube.com/watch?v=nepXQKPQKjY>

Webpage Date of Access: 04/13/2021

For specific filing basis information for each item, you must view the display within the Input Table.

International Class 041: Entertainment services, namely, providing video podcasts in the field of comics and the comic book industry; Entertainment services, namely, providing webcasts in the field of comics and the comic book industry; Entertainment services, namely, the provision of continuing shows featuring comic and comic book creators delivered by the internet; Organizing, arranging, and conducting virtual telethons and crowdfunding events; Organizing, arranging, and conducting online and live comics and comic books related events; Providing information and news in the field of current events relating to comics and the comic book industry; Providing online non-downloadable comics; Providing online non-downloadable electronic publications in the nature of online videos, website and posts on social media platforms in the field of comics and the comic book industry; Providing online non-downloadable videos in the field of comics and the comic book industry; Provision of information in the field of leisure activities, namely, comics and comic books; Entertainment services, namely, providing podcasts in the field of comics and comic books

Use in Commerce: The applicant is using the mark in commerce on or in connection with the identified goods/services. The applicant attaches, or will later submit, one specimen as a JPG/PDF image file showing the mark as used in commerce on or in connection with any item in the class of

listed goods/services, regardless of whether the mark itself is in the standard character format or is a stylized or design mark. The specimen image file may be in color, and the image must be in color if color is being claimed as a feature of the mark.

In International Class 041, the mark was first used by the applicant or the applicant's related company or licensee predecessor in interest at least as early as 07/02/2018, and first used in commerce at least as early as 07/02/2018, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods/services, consisting of a(n) online and social media print-outs; A screen capture of a two and a half hour COMICSGATE YouTube show featuring many comic book creators.

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

[Specimen File4](#)

Webpage URL: <https://www.youtube.com/watch?v=nepXQKPQKjY>

Webpage Date of Access: 04/13/2021

Disclaimer

No claim is made to the exclusive right to use COMICS apart from the mark as shown.

Claim of Active Prior Registration(s)

The applicant claims ownership of active prior U.S. Registration Number(s) 6102744.

The owner's/holder's proposed attorney information: Scott Houtteman. Scott Houtteman of Houtteman Law LLC, is a member of the XX bar, admitted to the bar in XXXX, bar membership no. XXX, is located at

PO Box 370

Merrifield, Virginia 22116

United States

202-263-0808(phone)

bekdocket@gmail.com

The docket/reference number is 482.001.

Scott Houtteman submitted the following statement: The attorney of record is an active member in good standing of the bar of the highest court of a U.S. state, the District of Columbia, or any U.S. Commonwealth or territory.

The applicant's current Correspondence Information:

Scott Houtteman

PRIMARY EMAIL FOR CORRESPONDENCE: bekdocket@gmail.com

SECONDARY EMAIL ADDRESS(ES) (COURTESY COPIES): scott@houtteman.com

Requirement for Email and Electronic Filing: I understand that a valid email address must be maintained by the applicant owner/holder and the applicant owner's/holder's attorney, if appointed, and that all official trademark correspondence must be submitted via the Trademark Electronic Application System (TEAS).

A fee payment in the amount of \$500 has been submitted with the application, representing payment for 2 class(es).

Declaration

☒ **Basis:**

If the applicant is filing the application based on use in commerce under 15 U.S.C. § 1051(a):

- The signatory believes that the applicant is the owner of the trademark/service mark sought to be registered;
- The mark is in use in commerce and was in use in commerce as of the filing date of the application on or in connection with the goods/services in the application;
- The specimen(s) shows the mark as used on or in connection with the goods/services in the application and was used on or in connection with the goods/services in the application as of the application filing date; and
- To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.

And/Or

If the applicant is filing the application based on an intent to use the mark in commerce under 15 U.S.C. § 1051(b), § 1126(d),

and/or § 1126(e):

- The signatory believes that the applicant is entitled to use the mark in commerce;
 - The applicant has a bona fide intention to use the mark in commerce and had a bona fide intention to use the mark in commerce as of the application filing date on or in connection with the goods/services in the application; and
 - To the best of the signatory's knowledge and belief, the facts recited in the application are accurate.
- ☒ To the best of the signatory's knowledge and belief, no other persons, except, if applicable, concurrent users, have the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other persons, to cause confusion or mistake, or to deceive.
- ☒ To the best of the signatory's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, the allegations and other factual contentions made above have evidentiary support.
- ☒ The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or submission or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Scott Houtteman/ Date: 04/15/2021

Signatory's Name: Scott Houtteman

Signatory's Position: Attorney at Law - VA Bar

Signatory's Phone Number: 202-263-0808

Signature method: Sent to third party for signature

Payment Sale Number: 90648096

Payment Accounting Date: 04/15/2021

Serial Number: 90648096

Internet Transmission Date: Thu Apr 15 14:42:50 ET 2021

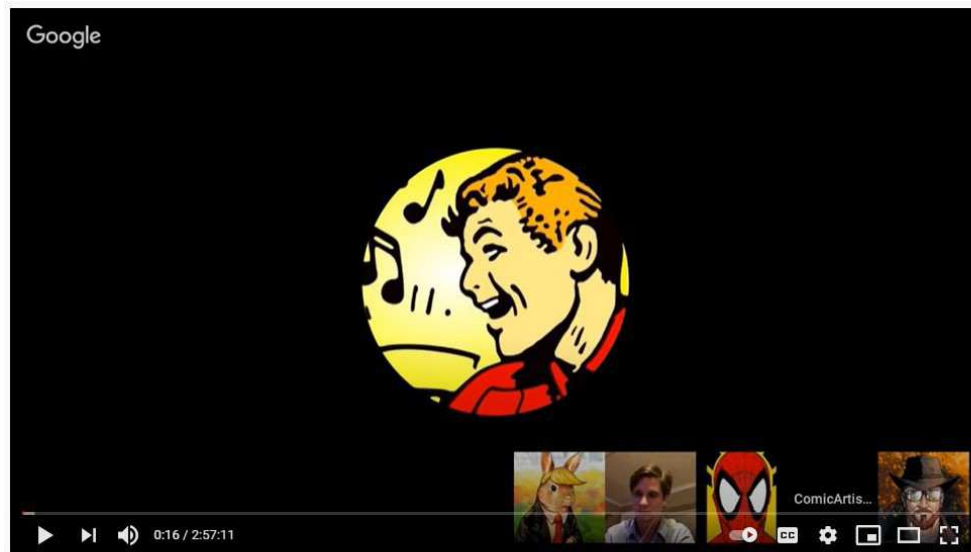
TEAS Stamp: USPTO/FTK-XXX.XX.XXX.XX-2021041514425063

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CC-42494935-20210415102032130592

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RAVAGE KILL ALL MEN: <https://igg.me/at/ravage/x>

CYBERFROG BLOODHONEY: <https://igg.me/at/Cyberfrog/x>

JAWBREAKERS: <https://igg.me/at/jawbreakers/x>

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\$1.99

PLUGS Out for TUG



Jethro Fawkes
\$2.00

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Ethan Van Sciver
Marion, United States
[Campaign](#) [More](#)

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5938% of \$8,000 fixed goal

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ComicArtistPro Secrets on YouTube 
@EthanVanSciver

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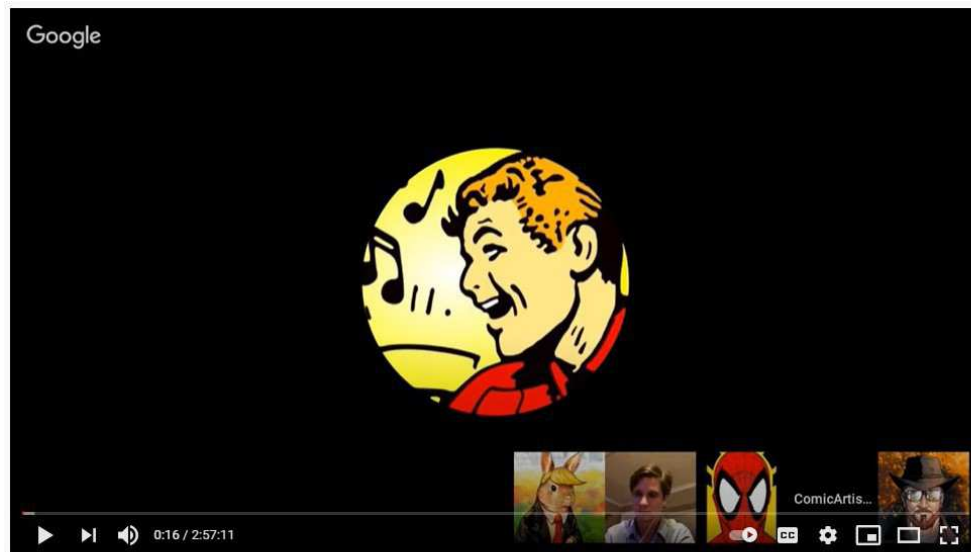
And we're fully funded in 8 minutes! Thanks,
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We relaunched CYBERFROG BLOODHONEY with a brand new exclusive variant cover! For those who missed out, you've got one week!
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The Daily Groove 2 years ago

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REPLY

Top chat replay



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- Roy Rogers WOW!
- Metalllhead WOW
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- Proved What You Are JIM
- Humphrey Bear howdy
- Trajan Why is Edwin there?
- Marz10 How much autism is this?
- Somni what up everyone
- Dave Hey
- James Gochnour Oh sl t, it begins
- Jane Smith ya boy zack

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Podcasts

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EXHIBIT 5

Franchise Search Results

Public Information Report



As of : 07/12/2021 12:52:28

This page is valid for most business transactions but is not sufficient for filings with the Secretary of State

[Obtain a certification](#) for filings with the Secretary of State.

COMMON SENSE PRESS, INC.


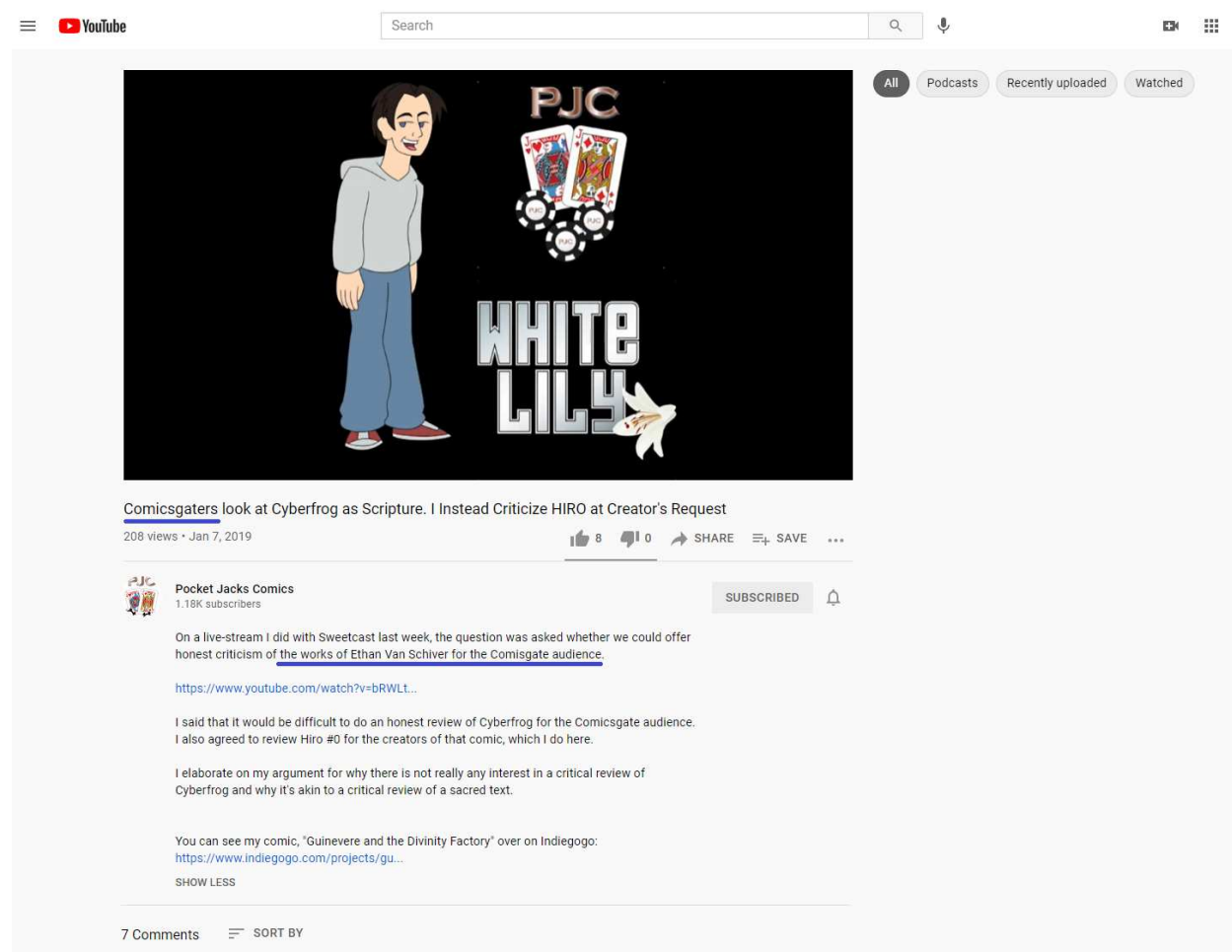
Texas Taxpayer Number	32036882382
Mailing Address	12471 WOOD MANOR CIR DALLAS, TX 75234-6333
 Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	04/25/2008
Texas SOS File Number	0800970415
Registered Agent Name	PRESTON POULTER
Registered Office Street Address	12471 WOOD MANOR CIRCLE DALLAS, TX 75234

EXHIBIT 6

JAN. 7 and JAN. 8, 2019 – PETITIONER CSP - PRESTON POULTER’S ADMISSIONS THAT “COMICSGATE” IS A SERVICE MARK USED IN COMMERCE TO PROMOTE CROWDFUNDING OF COMIC BOOKS.

JAN. 7, 2019 - YouTube Channel, POCKET JACKS COMICS, 11.16 min livestream entitled “Comicsgaters look at Cyberfrog as Scripture I Instead Criticize HIRO at Creators Request,” broadcast on January 7, 2019, <<https://www.youtube.com/watch?v=vuyZP3tslRI&t=53s>>, last visited on July 28, 2021 (emphasis added).



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Comicsgaters look at Cyberfrog as Scripture. I Instead Criticize HIRO at Creator's Request

208 views · Jan 7, 2019

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On a live-stream I did with Sweetcast last week, the question was asked whether we could offer honest criticism of the works of Ethan Van Schiver for the Comicsgate audience.

<https://www.youtube.com/watch?v=bRWLT...>

I said that it would be difficult to do an honest review of Cyberfrog for the Comicsgate audience. I also agreed to review Hiro #0 for the creators of that comic, which I do here.

I elaborate on my argument for why there is not really any interest in a critical review of Cyberfrog and why it's akin to a critical review of a sacred text.

You can see my comic, "Guinevere and the Divinity Factory" over on Indiegogo:
<https://www.indiegogo.com/projects/gu...>

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7 Comments SORT BY

Transcription from 0:33 to 1:52 (emphasis added)

00:00:33 Preston Poulter (“Poulter”)

But if we're doing a review to a Comicsgate audience, which let's face it, like the Non Comicsgaters are just going to hate it regardless because they can't separate the art from the artist necessarily.

EXHIBIT 6

00:00:45 Poulter

So they take the artist so they're not. They're not going to like the art. So now who we do interview for. It's probably the people who simply are Comicsgaters, and that would be like doing a critical review of the Bible, uh, for Christians.

00:00:59 Poulter

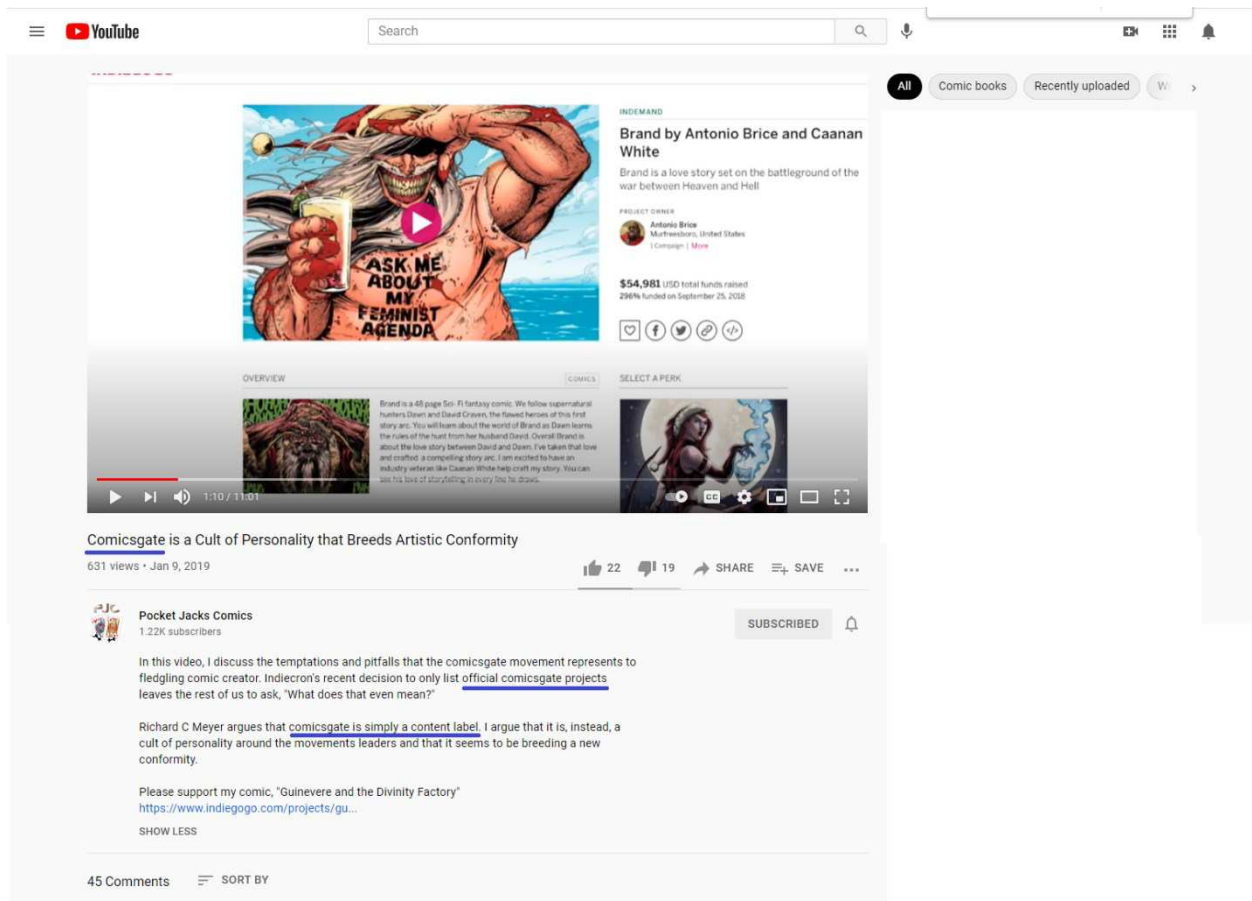
When it comes to the Comicsgate crowd, Ethan Van Sciver and Richard C. Meyer kind of define the genre. They are essentially the ones defining Comicsgate and saying what it is.

00:01:09 Poulter

And if this is their work, then how could we possibly criticize the work of what is defining the genre? I mean, all the works would basically need to be compared to those two, right? And that's why I say as a consumer to almost mind saying hey, I like Comicsgate because I, I want to be consuming things which are free from social justice but as a producer I have no idea like how I'm supposed to be able to say my project is a Comicsgate project because, uh, I'm not even really sure what that means. Like I'm, I'm, I'm just putting out there what I feel is a good comic.

EXHIBIT 6

JAN 9, 2019 - POCKET JACKS COMICS, 11.01 min livestream entitled “Comicsgate is a Cult of Personality that Breeds Artistic Conformity,” broadcast on January 9, 2019,
<<https://www.youtube.com/watch?v=qKaLO1F9fCg&t=83s>>, last visited on July 28, 2021.



The screenshot shows a YouTube video player interface. The video title is "Comicsgate is a Cult of Personality that Breeds Artistic Conformity" by Pocket Jacks Comics. The video is 11:01 minutes long and has 631 views. The video content shows a comic book cover for "Brand" by Antonio Brice and Caanan White, featuring a muscular, red-skinned character with a large, open mouth and a pink play button overlay. The video description discusses the Comicsgate movement and its impact on the comic book industry.

Brand by Antonio Brice and Caanan White
Brand is a love story set on the battleground of the war between Heaven and Hell.

PROJECT OWNER
Antonio Brice
Murfreesboro, United States
(Campaign) | [More](#)

\$54,981 USD total funds raised
296% funded on September 25, 2018

OVERVIEW **COMICS** **SELECT A PERK**

Brand is a 48-page Sci-Fi fantasy comic. We follow supernatural hunters Dawn and David Crown, the flawed heroes of this first story arc. You will learn about the world of Brand as Dawn learns the rules of the hunt from her husband David. Overall Brand is about the love story between David and Dawn. I've taken that love and crafted a compelling story arc. I am excited to have an industry veteran like Caanan White help craft my story. You can see his love of storytelling in every line he draws.

Comicsgate is a Cult of Personality that Breeds Artistic Conformity
631 views • Jan 9, 2019

Pocket Jacks Comics
1.22K subscribers

In this video, I discuss the temptations and pitfalls that the comicsgate movement represents to fledgling comic creator. Indiecron's recent decision to only list [official comicsgate projects](#) leaves the rest of us to ask, "What does that even mean?"

Richard C Meyer argues that [comicsgate is simply a content label](#). I argue that it is, instead, a cult of personality around the movements leaders and that it seems to be breeding a new conformity.

Please support my comic, "Guinevere and the Divinity Factory"
<https://www.indiegogo.com/projects/gu...>

SHOW LESS

45 Comments SORT BY

Transcription from 0:24 to 1:46

00:00:24 Poulter

I want to talk about Comicsgate for a bit and I'm putting this under the series I'm doing for comic creators because these are the decisions you're having to make. As a small comic creator, you're going to naturally kind of find yourself, ah, either falling in with or having to actively reject the Comicsgate crowd. Because if you're looking at, you know, the biggest numbers put up on the scoreboard for indie comics.

00:00:48 Poulter

They are going to be dedicated Comicsgate people such as you know Ethan Van Sciver and Richard C. Myers.

EXHIBIT 6

00:00:57 Poulter

And Ethan Van Sciver has gone on record as saying, hey, if you're a comic creator and your Comicsgate friendly, come on my platform and you know he's put some impressive numbers up there, not only for himself but also Antonio Bryce with Brand.

00:01:11 Poulter

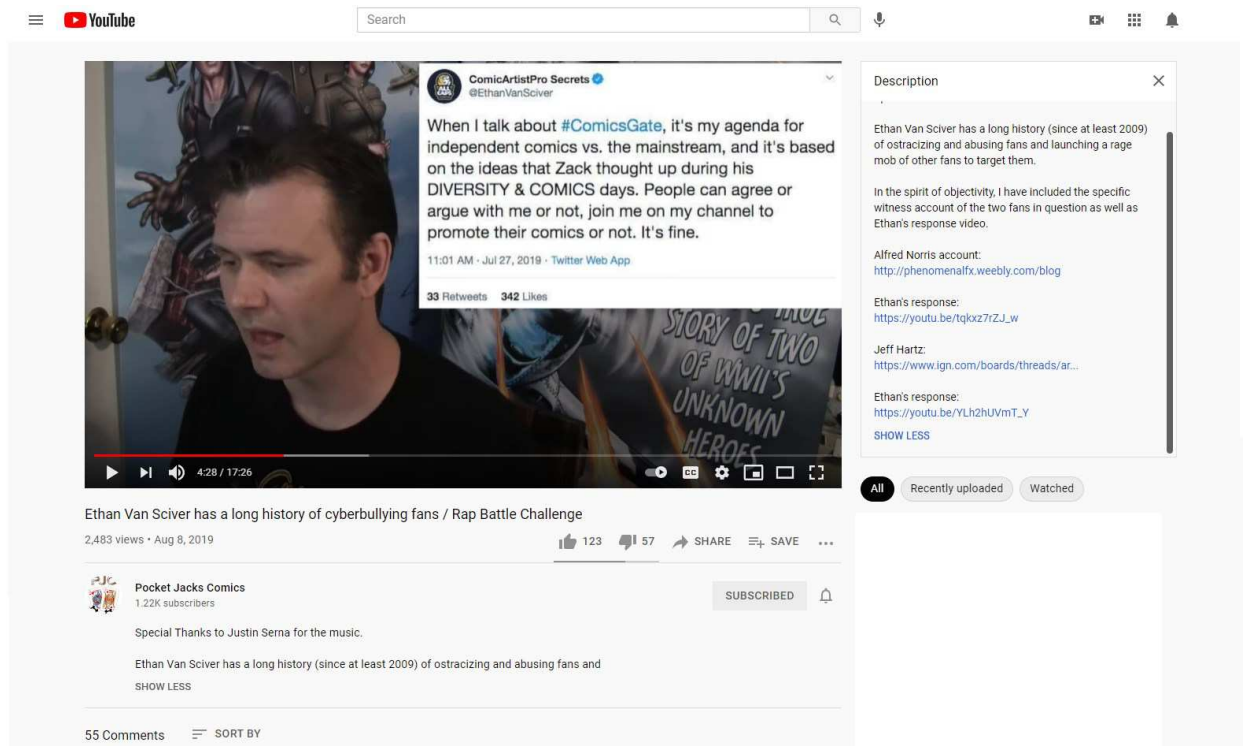
He was able to take a guy [Mr. Bryce] who just had an idea for a comic, and you know, just some preliminary artwork and get him to now \$55,000 on Indiegogo. And so you know there's certainly that temptation to go OK I am all on board with Comicsgate.

00:01:28 Poulter

So I want to discuss you know what is it and what does that mean? And for me this question has gone beyond theoretical because IndieCron, the website where I listed Guinevere and the Divinity Factory's Indiegogo page, has now come out and said all future submissions must be official Comicsgate projects.

EXHIBIT 6

AUG 8, 2019 - POCKET JACKS COMICS, 17.26 min livestream entitled “Ethan Van Sciver has a long history of cyberbullying fans / Rap Battle Challenge,” broadcast on August 8, 2019, <<https://www.youtube.com/watch?v=YAAqrlbNvTY&t=258s>>, last visited on July 28, 2021.



Transcript from 0.00 to 1.02:

00:00:00

Hey everybody, Preston Poulter here for Pocket Jacks comics. Oh my God the host OV mad on Twitter! Woo. You'd a think I'd a robbed a bank or something.

00:00:11

Man, they're all coming after me, including Ethan Van Sciver himself, who seems to have expressed a little bit or disapproval on Twitter.

00:00:20

And kind of in a few tweets. Kind of labeled me "stalker-ie" because I sent a series of tweets back when I was running the campaign for Guinevere and the Divinity Factory asking to be on his show, which as I responded to him well, Ethan, that was what you were saying to do at the time on your live streams. You're like, "Look, I'm super busy. I'm a big celebrity. I get all these DMS and messages. I can't possibly wade through them all. Just keep tagging me in posts and eventually I'll see you."

00:00:54

So I did. And now I'm gettin' blamed for it. Just following directions, Sir. Very sorry, but. . . .

EXHIBIT 7

OCT. 17, 2018 – COMICSGATE used to promote Indiegogo crowdfunding campaigns of eight (8) independent comic books, including “BRAND” by Antonio Brice et al.:

YouTube Channel, COMICARTISTPRO SECRETS, 2 hr. 34.35 min. livestream, “Comicsgate Live!!!,” broadcast on October 17, 2018, <<https://www.youtube.com/watch?v=QfRCa5QQp80&t=5853s>>, last visited on July 27, 2021 (emphasis added).

COMICSGATE LIVE!!!
9,999 views • Streamed live on Oct 17, 2018

ComicArtistPro Secrets 145K subscribers

Back ASAMI Children of Rusu here: <https://www.indiegogo.com/projects/as...>

Back GALACTIC COMET here: <https://www.indiegogo.com/projects/th...>

Back BRAND here: <https://www.indiegogo.com/projects/br...>

Back BRUTAS THE BADASS: <https://www.indiegogo.com/projects/br...>

Back BLACK AND WHITE here: <https://www.indiegogo.com/projects/bl...>

Back LONESTAR here! <https://www.indiegogo.com/projects/lo...>

Back BigFoot Bill: <https://www.indiegogo.com/projects/do...>

Back GRAVEYARD SHIFT here: <https://www.indiegogo.com/projects/gr...>

SHOW LESS

26 Comments SORT BY

Top chat replay

- K Sss Frank Frazetta. He did sexy covers
- Gigadeath The Graphic Novel Back Brand
- Mr.Thundaro You can STILL back BRAND by Antonio Brice! >>>> <https://www.indiegogo.com/projects/br...> Go check it out!!
- KAM1138 PLEASE folks--consider backing Asami, because I'd love to get this funded and get my copy.
- Dynamo NASSER KILLING AN OLD JOKE
- Carl Philipp Gaebler Vox Day did nothing wrong
- Margaret Mericle ANTONIO'S BRAND <https://www.indiegogo.com/projects/br...>
- jancejancejance the 57 year old knows all about Bran
- Justin Brown Its finished. Put it on the fridge.
- Lovely Lashes Ink one of my doodles
- Nuclear Sandwich ART DOESNT WANT TO TOUCH YOUR DOODLE NASSER!!!!
- Mr.Thundaro You can STILL back BRAND by Antonio Brice! >>>> <https://www.indiegogo.com/projects/br...> Go check it out!!
- Michael Nasser uses catheter lube in his hair

HIDE CHAT REPLAY

EXHIBIT 7

<<https://www.indiegogo.com/projects/brand-by-antonio-brice-and-caanan-white#/>> last visited July 29, 2021 (advertising removed)

Brand by Antonio Brice and Caanan White


INDIEGOGO Explore What We Do

For Entrepreneurs Start a Campaign Log In Sign Up

THIS CAMPAIGN IS CLOSED

Brand by Antonio Brice and Caanan White

ABOUT THIS CAMPAIGN



CLOSED

Brand by Antonio Brice and Caanan White




Brand is a love story set on the battleground of the war between Heaven and Hell

Antonio Brice
3 Campaigns | Murfreesboro, United States

\$78,031 USD by 2,488 backers

\$44,439 USD by 1,483 backers on Sep 25, 2018

FOLLOW



STORY FAQ UPDATES 32 COMMENTS 255

Highlights


3 Projects

Overview

Brand is a 48 page Sci-Fi fantasy comic. We follow supernatural hunters Dawn and David Craven, the flawed heroes of this first story arc. You will learn about the world of Brand as Dawn learns the rules of the hunt from her husband David. Overall Brand is about the love story between David and Dawn. I've taken that love and crafted a compelling story arc. I am excited to have an industry veteran like Caanan White help craft my story. You can see his beautiful story arc about the love between Dawn and David.

CONTINUE READING

Select a perk



Tags for this project

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Experts Directory

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Enterprise

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SIGN ME UP

Select Currency





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EXHIBIT 8

[Home](#) » [Comics](#) » The Bleeding Cool Top 100 Power List 2018 Countdown: #75-71

The Bleeding Cool Top 100 Power List 2018 Countdown: #75-71

Posted on December 23, 2018 by [Rich Johnston](#) | [Comments](#)

This is where it all goes kablooeey.

Every year, Bleeding Cool runs its Top 100 Power List of members of the comics industry. And every year we get told how wrong we are. Somehow, it's always for completely different reasons and from completely different directions. Why was X in when Y was not? Why is Z is high when W is so low? And neither U or T should be on this list after that incident involving V... and condemning us for being either infested with SJW virtue signalling or providing platforms for fascists – and sometimes simultaneously. The latter of which is on this part of the list. We are not giving this specific person a platform nor are we agreeing with anything they might have to say. Unfortunately, sometimes people with less than agreeable ideals are influential even if people don't want to admit it and they make this list. [Man, I don't know how Time Magazine manages.](#)

But that's part of the process. This attempt to list the most powerful people working in the English-speaking comic book marketplace is, of course, flawed. It is judged by all manner of attributes, the ability to influence what comics exist and sell, but also the willingness to use that power in the industry to affect things, and the ability to retain said power if a job is taken away. Which is why you will see a number of people on a higher spot than their bosses.

The Power List rewards those who combine roles, creator, publisher, distributor, retailers, those who are double and triple threats, and also where power is concentrated in one person rather than being spread out among many. Some powerful organisations or groups, where power is diffused amongst several individuals, may drop down or drop out altogether.

It does not measure talent or likeability, respect or fairness, and it does not intend to represent diversity or balance. All it does is note power, used for betterment — or detriment — in the English speaking comic book world.

The list was created in consultation with a number of senior figures in the comics industry, and I thank them for their help. Although because they all disagree, they'll all think the final list is wrong, too.

If you really hate this list, then do the obvious thing. Write your own. Otherwise, watch for new batches every day...



71. Jon Goldwater. Co-CEO of Archie Comics, Goldwater has seen a revival of the brand grow, from relaunching Archie in a Young Adult direction, chasing newspaper headlines, creating horrific and political spinoffs and seeing the Riverdale TV show find a whole new audience for the Archie comic books. He has overseen the re invention of what an Archie Comic book could be across today's society. Next stop, India...

72. Tim Lenaghan. Vice President of Purchasing at Diamond Comic Distributors. You would like a book in Diamond's Previews catalogue? And into the direct market of comic book stores? The buck stops with him. He is directly involved with anything that goes on in the direct market of comic stores and the bookstore market to whom Diamond supplies. He negotiates contracts with comic book publishers and has direct power over almost every one of them.

EXHIBIT 8

73. Caitlin DiMotta. A partner at Katz Golden Rosenman LLP , specialising as an attorney in entertainment law, and more specifically with comic book creators, including **Ed Brubaker, Jeff Lemire, Rick Remender, Kelly Sue DeConnick, and Chip Zdarsky.** A well-regarded negotiator with publishers, with merchandising, and with media rights, she's been responsible for some very attractive deals and an extra zero on the end of some paycheques. A lawyer who's liked? That's a very powerful attribute to have indeed.

74. Ethan Van Sciver. Leaving DC Comics after prominent creators refused to work with him anymore, he used the usual mixture of Comicsgate virtue signalling, identity politics and mocking hater videos to raise over half a million dollars on Indiegogo, for his still-upcoming Cyberfrog comic revival. The highest amount raised on crowdfunding by any comic creator in the year, it helps that he can actually draw. This helped him take the position as leading Comicsgate figure as Richard Meyer stepped back, due to his legal case with Mark Waid, and not wanting to give the defence further ammunition.

75. Christina Merkler. Co-owner of the international comic book discount site DCBS, Diamond Comics' biggest comics account, with a major influence as to what comics she recommends to her customers, she is also president of the Comic Book Legal Defense Fund, able to heavily influence which cases the activist free speech group take on.

See you tomorrow, if I survive the combination of hate from people angry for saying what I said, and from others for saying anything at all. Happy Christmas one and all. [And keep up with this handy-dandy Top 100 Power List tag.](#)

Posted in: [Comics](#) | Tagged: [bleeding cool](#), [Comics](#), [comics industry](#), [power list](#), [powerlist2018](#), [top 100](#)

Enjoyed this? Please share on social media!



About Rich Johnston

Founder of Bleeding Cool. The longest-serving digital news reporter in the world, since 1992. Author of The Flying Friar, Holed Up, The Avenged, Doctor Who: Room With A Deja Vu, The Many Murders Of Miss Cranbourne, Chase Variant. Lives in South-West London, works from Blacks on Dean Street, shops at Piranha Comics. Father of two.

Political cartoonist.



EXHIBIT 9

<<https://twitter.com/ComicsJacks/status/1147995787932160003>>, last visited 7/29/21



<<https://twitter.com/ComicsJacks/status/1155653406859702272>>, last visited 7/29/21

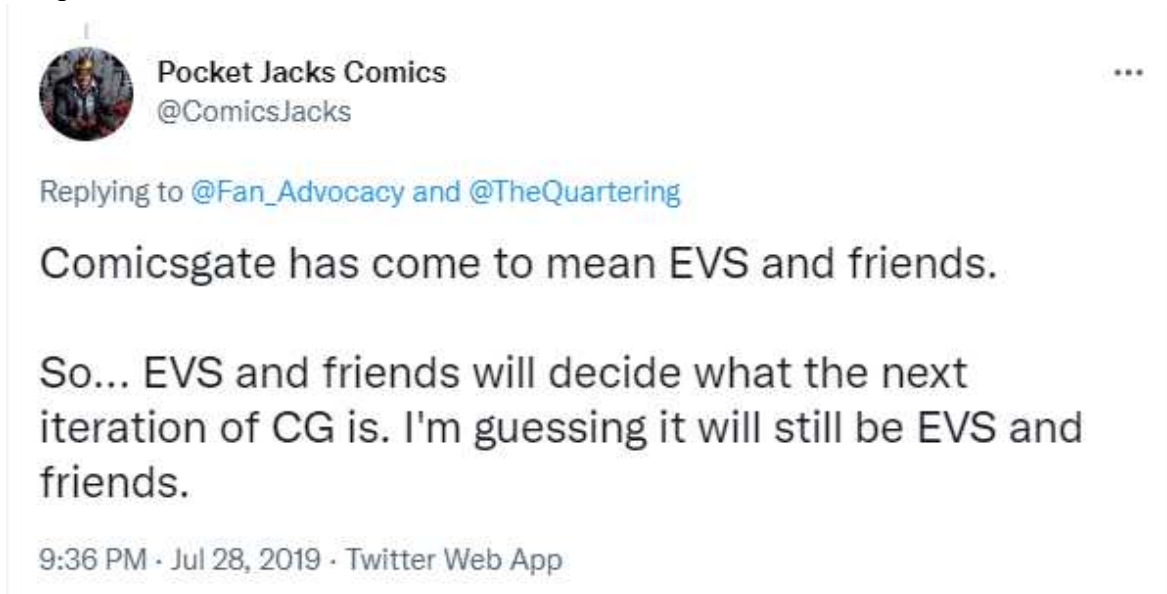


EXHIBIT 9

<https://twitter.com/ComicsJacks/status/1155826457819508738>>, last visited 7/29/21



Pocket Jacks Comics
@ComicsJacks

...

Replying to @LLeeStewart1

Indeed. For that matter, many members of [#Comicsgate](#) have attacked creators for trying to steal/grift by presenting a comic book to them who do not fulfill their identity requirements as fully CG.

That seems silly to me.

9:04 AM · Jul 29, 2019 · Twitter Web App

2 Likes

<https://twitter.com/ComicsJacks/status/1170515706665951232>>, last visited 7/29/21



Pocket Jacks Comics
@ComicsJacks

...

Replying to @BobbyKubar

Well, it got reviewed well by Son of Comicsgate live as well as @ComicsGateway

The notion that you look at CF as Holy Scripture illustrates what I've been saying. CG is Ethan's little club full of Ethan's littlest sycophants.



Guinevere and the Divinity Factory Review

This is my favorite comic book that I've read this week!
Strong recommend! Support indie comics!! Buy the Comic ...
[youtube.com](#)

9:54 PM · Sep 7, 2019 · Twitter for iPad

2 Likes

EXHIBIT 9

<<https://twitter.com/ComicsJacks/status/1189752525039243265>>, last visited 7/29/21



Pocket Jacks Comics
@ComicsJacks



youtu.be/zy4k12ejlfA

@Indiegogo allows #comicsgate creators of Ethan Van Sciver's choosing to run a 2nd campaign without having fulfilled the first which gives Ethan a carrot to offer creators to Hail Caesar in addition to the stick of War Campaign harassment.



Indiegogo allows Comicsgate special privilege of 2nd Camp...
I invite you to support my Kickstarter for White Lily #4:
<https://www.kickstarter.com/projects/pocketjacks/white-lil...>
[youtube.com](#)

11:54 PM · Oct 30, 2019 · Twitter Web App

<<https://twitter.com/ComicsJacks/status/1195944701137866752>>, last visited 7/29/21



Pocket Jacks Comics
@ComicsJacks



Replying to @HarriBergeron @TheVikkiVerse and @cheyenne70

Only to you. Seriously, you alpha males need to report to a safe space to be shielded from respectfully presented opposing views.

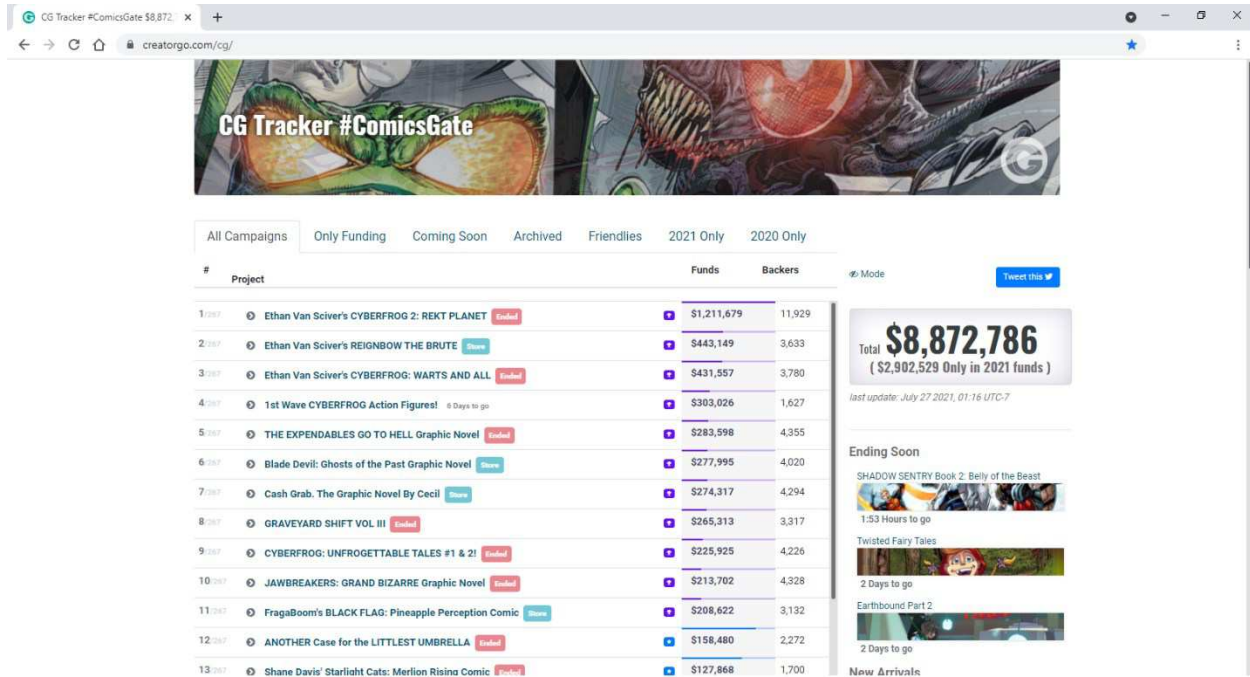
Also, I am working for the destruction of #comicsgate and would never willing hire anyone associated. So put your outrage where it belongs.

1:00 AM · Nov 17, 2019 · Twitter for iPhone

2 Retweets 4 Likes

EXHIBIT 10

COMICSGATE FAN PROJECTS, FOR EXAMPLE, <<https://creatorgo.com/cg/>>, last visited 7/29/2021 (first page only) (A fan's efforts to track 2020 and 2021 Comicsgate campaigns on Indiegogo)



CG Tracker #ComicsGate \$8,872,786

creatorgo.com/cg/

All Campaigns Only Funding Coming Soon Archived Friendlies 2021 Only 2020 Only

#	Project	Funds	Backers
1	Ethan Van Sciver's CYBERFROG 2: REKT PLANET Ended	\$1,211,679	11,929
2	Ethan Van Sciver's REIGNBOW THE BRUTE Shave	\$443,149	3,633
3	Ethan Van Sciver's CYBERFROG: WARTS AND ALL Ended	\$431,557	3,780
4	1st Wave CYBERFROG Action Figures! 6 Days to go	\$303,026	1,627
5	THE EXPENDABLES GO TO HELL Graphic Novel Ended	\$283,598	4,355
6	Blade Devil: Ghosts of the Past Graphic Novel Shave	\$277,995	4,020
7	Cash Grab: The Graphic Novel By Cecil Shave	\$274,317	4,294
8	GRAVEYARD SHIFT VOL III Ended	\$265,313	3,317
9	CYBERFROG: UNFROGETTABLE TALES #1 & 2! Ended	\$225,925	4,226
10	JAWBREAKERS: GRAND BIZARRE Graphic Novel Ended	\$213,702	4,328
11	FragaBoom's BLACK FLAG: Pineapple Perception Comic Shave	\$208,622	3,132
12	ANOTHER Case for the LITTLEST UMBRELLA Ended	\$158,480	2,272
13	Shane Davis' Starlight Cats: Merlion Risino Comic Ended	\$127,868	1,700

Total **\$8,872,786**
(\$2,902,529 Only in 2021 funds)

last update: July 27 2021, 01:16 UTC-7

Ending Soon

SHADOW SENTRY Book 2: Belly of the Beast
1:53 Hours to go

Twisted Fairy Tales
2 Days to go

Earthbound Part 2
2 Days to go

New Arrivals